

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





# 76-1372

B  
P/S

## United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1372

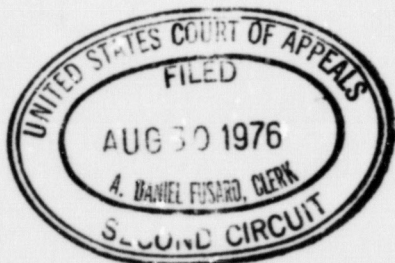
UNITED STATES OF AMERICA,  
*Appellant,*

—v.—

REGINALD SATTERFIELD,  
*Defendant-Appellee.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

### APPELLANT'S APPENDIX



ROBERT B. FISKE, JR.,  
*United States Attorney for the  
Southern District of New York,  
Attorney for the United States  
of America.*

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76 CRIM. 0376

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

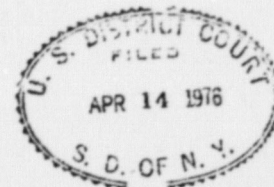
- v - :

REGINALD SATTERSFIELD,  
RONALD WESTON,  
and JAMES ARNOLD BYRD,

Defendants. :

INDICTMENT

S 76 Cr.

COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of October, 1975, and continuously thereafter up to and including the date of the filing of this Indictment, in the Southern District of New York, REGINALD SATTERSFIELD, RONALD WESTON, and JAMES ARNOLD BYRD, the defendants, and others to the Grand Jury unknown, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

2. It was part of said conspiracy that the said defendants unlawfully, intentionally and knowingly would distribute and possess with intent to distribute Schedule I and II narcotic drug controlled substances the exact amount thereof being to the Grand Jury unknown in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

MICROFILM

APR 15 1976

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York:

1. On or about October 28, 1975, JAMES ARNOLD BYRD and RONALD WESTON, the defendants, met with Dwight Rabb, a Special Agent of the Drug Enforcement Administration, who at the time was acting in undercover capacity, inside the Blue Star Bar, 140th Street and Adam Clayton Powell Boulevard, New York, New York.
2. On or about October 28, 1975, JAMES ARNOLD BYRD, the defendant, handed Dwight Rabb two separate packages, which packages contained a total of approximately 40.92 grams of heroin.
3. On or about October 28, 1975, Dwight Rabb made two payments to RONALD WESTON totalling \$2,600.00.
4. On or about October 29, 1975, Dwight Rabb handed JAMES ARNOLD BYRD, the defendant, \$100.00.
5. On or about October 29, 1975, Dwight Rabb handed RONALD WESTON, the defendant, \$200.00.
6. On or about October 30, 1975, RONALD WESTON, the defendant, handed Dwight Rabb a package containing approximately 249.11 grams of heroin.
7. On or about October 30, 1975, Dwight Rabb handed RONALD WESTON, the defendant, \$17,000.00.



8. On or about October 31, 1975, RONALD WESTON, the defendant, handed Dwight Rabb a package containing approximately 11.32 grams of heroin inside the Holiday Inn, 440 W. 57th Street, New York, New York.

9. On or about November 6, 1975, REGINALD SATTERSFIELD, RONALD WESTON, the defendants, and Dwight Rabb went to the Club La Martinique, 57 West 57th Street, New York, New York.

10. On or about November 13, 1975, RONALD WESTON, REGINALD SATTERSFIELD, the defendants, and Dwight Rabb met at the Zanzi Bar, Adam Clayton Powell Boulevard at 145th Street, New York, New York.

11. On or about November 13, 1975, REGINALD SATTERSFIELD and RONALD WESTON, the defendants, agreed to sell Dwight Rabb one kilogram of heroin for \$34,000.00.

12. On or about January 19, 1976, RONALD WESTON, the defendant, possessed traces of heroin and cocaine.

(Title 21, United States Code, Section 846).



COUNT TWO

The Grand Jury further charges:

On or about the 29th day of October, 1975, in the Southern District of New York, RONALD WESTON, REGINALD SATTERSFIELD, and JAMES ARNOLD BYRD, the defendants, unlawfully intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 40.92 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

On or about the 30th day of October, 1975, in the Southern District of New York, REGINALD SATTERSFIELD and RONALD WESTON, the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 249.11 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2.)

COUNT FOUR

The Grand Jury further charges:

On or about the 31st day of October, 1975, in the Southern District of New York, REGINALD SATTERSFIELD and RONALD WESTON the defendants,

unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 11.32 grams of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A), and Title 18, United States Code, Section 2.)

Eugene Sadman  
Foreman

Robert B. Fiske, Jr.  
ROBERT B. FISKE, JR.  
United States Attorney



CRIMINAL DOCKET - U.S. District Court

TY OFFENSE NO. JUDGE/MAGISTRATE Assigned: **0855** **A 6**

DEFENSE NO. **0208 1** **SATTERSFIELD, REGINALD**

FILE NO. **03** **04/14/76** **0376** **01**

U.S. TITLE SECTION OFFENSES CHARGED ORIGINAL COUNTS

21:846 Consp. to viol. Fed. Narco. Laws.  
21:812,841 Distr. & possess. of Heroin, I.

2-4

# II. KEY DATES & INTERVALS

ARREST	INDICTMENT	ARRAIGNMENT	TRIAL	SENTENCE
U.S. District Court <b>1-20-76</b> Summons Served	High Risk Date <b>4-14-76</b> Summons Served	First Plea Trial Set For	Verdict Trial Begun Trial Ended	Disposition of Charges Convicted Acquitted Dismissed

MAGISTRATE		INITIAL APPEARANCE DATE		INITIAL NO. / OUTCOME	
Search Warrant	Issued	PRELIMINARY EXAMINATION	Detention / Release	HELD FOR OR OTHER PROCEEDING IN DISTRICT	DISMISSED
Summons	Issued	REMOVAL / RETURN	Detention / Release	HELD FOR OR OTHER PROCEEDING IN DISTRICT	DISMISSED
Arrest Warrant	Issued	Detention / Release	Detention / Release	HELD FOR OR OTHER PROCEEDING IN DISTRICT	DISMISSED
Divulgence	Issued	Detention / Release	Detention / Release	HELD FOR OR OTHER PROCEEDING IN DISTRICT	DISMISSED

U.S. Attorney of District  
**Thomas M. Fortuin, AUSA.**  
(212) 791-1940

ATTORNEYS  
**Lawrence K. Feitell**  
tele: (212) Pl 3-7500  
**150 East 58th St**  
**New York, N.Y. 10022**

## Weston-2, Byrd-3.

DATE	PROCEEDINGS	EXCLUSABLE DELAY
4-14-76	Filed indictment. Assigned to Knapp, J. as related to 76-cr-107.	
4-14-76	B/W ordered..Lasker, J. B/W issued.	
05-11-76	Filed documents forwarded by Magistrate Schreiber: 4-16-76 complaint filed, deft. present. deft. released on \$5,000 P.R.B. without security.	
06-04-76	Filed notice of appearance of atty. Lawrence K. Feitell, Esq.	
06-04-76	Deft. (atty. Lawrence Feitell only present) P.T.C. held. The Court directs the entry of a plea of not guilty. Trial date 7-6-76 at 10:30AM. Knapp, J.	
06-28-76	Filed deft's notice of motion suppression of statements of the deft. under Rule 41(e) FRCP. ret: 7-6-76.	
07-01-76	Filed deft's affdvt. re: affdvt. of Lawrence K. Feitell.	
07-01-76	Filed Govt.'s memo. in opposition to the deft's motion to suppress.	
06-30-76	Deft. (atty. Lawrence Feitell) hearing held on deft's motion to suppress. Granted, in part, denied in part and decision reserved in part. Knapp, J.	

DATE	PROCEEDINGS (continued)	PAGE TWO	V. EXCLUDABLE DELAY			
07-06-76	Filed Govt's Bill of particulars.		Interval Section (a)	Semi-Date and Date By	Lr Code (C)	Total Days (D)
07-09-76	Filed Opinion # 44726 - Deft. moves to suppress certain statements made to the Drug Enforcement Adm. and the U.S. Atty...Accordingly, having found deft. Satterfield's reights as established by <u>Massiah</u> to have been violated, we suppress his statements. Knapp, J. m/n					
07-14-76	Filed Opinion 44751 - memo. and order of 7-8-76 shall be amended as follows: On page five at the beginning of the fifth line from the top replace the word "def" with the word "suspect". Knapp, J. m/n					
07-19-76	Filed Govt's notice of motion re: reargument of of the order filed 7-9-76, etc. ret: 7-22-76.					
07-19-76	Filed Govt's memo. of law in support of its motion to reargue.					
07-23-76	Filed Opinion 44821-...Accordingly, findings #1 and #2 are modified simply to establish that Miranda warnings were give and that the agents advised Satterfield of the indictment, etc. The govt's motion is granted to the extent indicated above and is denied in all other respects. Knapp, J. m/n					
08-17-76	Filed Govt's Notice of Appeal from two Orders dated 07-09-76 and 07-23-76. Copies mailed to AUSA and defts. atty. at 150 East 58th St., N.Y.C. 10022.					

A 7

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER



A

8

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

-against-

76 CR. 376

76-1431  
**NOTICE OF HEARING**

REGINALD SATTERFIELD,

Defendant.

-----X

PLACE RETURNABLE:

U.S. Courthouse, Foley Square,  
N.Y. - Room 504, Courthouse of  
Hon. William Knapp, U.S.D.J.

TIME RETURNABLE:

July 6, 1976 at 9:30 a.m. or  
at any earlier time set by the  
Court.

SUPPORTING PAPERS:

Affidavit of Lawrence E. Faltall,  
Esq., sworn to on June 28, 1976.

RELIEF SOUGHT:

Suppression of statements of the  
defendant under Rule 61 (e) of  
Fed. R. Cr. Proc.

Dated: New York, New York  
June 28, 1976

---

LAWRENCE K. PRISCELL  
Attorney for Defendant  
Gottorfield  
150 East 58th Street  
New York, New York 10022  
(212) 751-7900

TO: U.S. Attorney  
S.D.N.Y.  
Foley Square, N.Y.  
(Attn: A.U.S.A. Robert Costello)

Clerk, Criminal Motions  
U.S. District Court  
So. Dist. of N.Y.  
Foley Square, N.Y.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X

UNITED STATES OF AMERICA,

-against-

76 CR. 376

~~ALFRED~~

REGINALD SATTERFIELD,

Defendant.

-----X

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:

LAWRENCE K. FEITELL being duly sworn deposes  
and says that:

1. I am counsel for the above-named defendant, REGINALD SATTERFIELD, and I make this affidavit in support of defendant's application under Rule 41 (a) of the Federal Rules of Criminal Procedure to suppress various statements made by defendant following his arrest in this case. While this motion is being brought on

after the time set by the Court for motions, it is requested that the Court nonetheless entertain this motion because counsel, who is new to this case, has acted as soon as possible in the circumstances which have confronted him. The undersigned filed his notice of appearance in this case on June 4, 1976, and did not request any time to make motions during his appearance before the Court because it was then believed that no motions were necessary. Indeed, the Assistant United States Attorney in charge of the case (Mr. FORTUIN) was commendably agreeable to making substantial discovery available to the undersigned and from what defendant had already advised counsel, it did not appear that there were any valid grounds on which defendant could proceed to suppress the statements which we now wish to attack.

2. On June 4, 1976, while in Court, Asst. U.S. Attorney Fortuin gave counsel a statement of the defendant made to him on the day of defendant's



arrest upon the instant indictment on April 16, 1976. At that time, counsel was not aware that the defendant had made a request on April 16, 1976, before the Magistrate for the assignment of counsel. Defendant was required to fill out a form preparatory to the assignment of counsel and, thus, appears not to have had counsel either at the arraignment or until I came into the case in early June, 1976.

3. Unbeknownst to me, and according to the defendant, after he left the Courtroom of the Magistrate on Friday, April 16, 1976, an agent of the Drug Enforcement Administration (D.E.A.) told him to come to the Offices of the D.E.A. on West 37th Street in New York City on Monday, April 19, 1976, to discuss his case. The defendant advises me that he did appear on April 19, 1976, at the D.E.A. offices, as requested and gave a tape recorded statement in which he incriminated himself. The defendant - who was indigent and without an attorney - appeared as requested, but without any counsel. We contend

that his statements to the D.E.A. agents at that time (Monday, April 19, 1976,) were not constitutionally derived as the defendant had already been indicted and arraigned on Friday, April 16, 1976 - at which time he had vainly requested the services of an attorney.

4. Defendant's statements to the D.E.A. on April 19, 1976, were not the product of a valid waiver even though the defendant had been warned of his so-called Miranda rights at that time. Defendant already stood indicted and had requested counsel while before the Magistrate, to no avail, on Friday, April 16, 1976 (see Kirby v. Illinois, 406 U.S. 682; Messiah v. United States, 377 U.S. 201). Defendant had filled out appropriate forms for the assignment of counsel by the Magistrate. This constituted an impediment to a later waiver which may be claimed to have occurred on Monday, April 19, 1976, when he appeared at the D.E.A. headquarters under the naive and mistaken belief that he had to appear there because



the Agents had requested him to do so. Such a "waiver" was neither intended nor intelligently and freely made (see Johnson v. Zerbst, 304 U.S. 458). It was known by then the defendant wanted a lawyer, had asked for one in Court, but did not yet have one, and still the Agents approached defendant - a person wholly inexperienced in criminal matters - to come to their offices. The 'waiver' was valueless as defendant was entitled to have counsel present (United States ex rel Lopez v. Zeliger, 344 F.S. 1050; aff'd 465 F. 2d 1405).

5. Counsel, in interviewing the defendant in early June formed the mistaken belief that the defendant's D.E.A. interview occurred before his arraignment. The undersigned also believed - albeit mistakenly - that the defendant had been arrested on April 19, 1976. Not until June 21, 1976, while in Court before Judge Knapp on the motions for the defendant Weston did I learn from A.U.S.A. Fortuin that the defendants' arrest occurred on

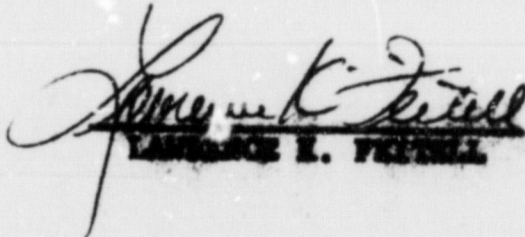
April 16, 1976 This, I learned from him when he showed me papers in his file reflecting the date of defendant's indictment and later arrest. At that point, it occurred to me that the interview with D.E.A. Agents three days later - without counsel - had been improper. I then arranged to re-interview the defendant and to research the question before undertaking any motions. It is thus earnestly felt that this motion should be entertained by the Court as it has been made as soon as possible by the undersigned who has already put into this case a large amount of time in an effort to discern the issues while avoiding unnecessary or improper motions.

6. Defendant also seeks to suppress the statement made by him to A.U.S.A. Fortuin on April 16, 1976, in the offices of the U.S. Attorney, after defendant's arrest. Defendant, instead of being promptly arraigned before a Magistrate was taken to Mr. Fortuin's




office where he agreed to answer questions after being warned of his rights. We contend that this pre-arraignment procedure was completely offensive to defendant's rights to be represented by an attorney as defendant was already indicted (see United States v. Dwyall, [CA 2, Feb. 26, 1976], 18 Crim. Law Reptr. 2560). He was not merely arrested on a complaint.

7. Based upon all of the foregoing, it is requested that the instant motion be entertained by the Court on its merits and that, if necessary, a hearing be held on any factual issues posed by the Government's answering papers.

  
LAWRENCE E. FEITELL

Duly sworn to before  
me this 28th day of  
June, 1976

S/   
IRVING FEITELL  
Notary Public, State of New York  
No. 4516983  
Qualified in Kings County  
Commission Expires March 30, 1978

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X

UNITED STATES OF AMERICA,

-against-

76 CR. 376

AFFIDAVIT

REGINALD SATTERFIELD,

Defendant,

-----X

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:

REGINALD SATTERFIELD being duly sworn deposes  
and says that:

1. I have read the affidavit of my attorney,  
Lawrence K. Feitell, sworn to on June 28, 1976, and I  
adopt each and every factual statement therein as my own  
and as if set forth in full in this affidavit.

S  
REGINALD SATTERFIELD

Duly sworn to before  
me this 28 day of June, 1976

LAWRENCE K. FEITELL  
NOTARY PUBLIC, State of New York  
No. 31-183957  
Qualified in New York County  
Commission Expires March 30, 1977



2JC:wp

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

REGINALD SATTERFIELD,

Defendant.

76 Cr. 376 (WK)

GOVERNMENT'S MEMORANDUM IN  
OPPOSITION TO THE DEFENDANT'S  
MOTION TO SUPPRESS.

The Government submits this Memorandum in opposition to defendant Satterfield's motion to suppress the statements he made to agents of the Drug Enforcement Administration ("D.E.A.") and to the Assistant United States Attorney.

The interview of Reginald Satterfield, Drug Enforcement Administration Agents and by Assistant United States Attorney Fortuin on April 16, 1976, did not violate the indicted defendant's 6th Amendment right to counsel. A defendant arrested on an indictment can validly waive his right to counsel. United States v. Brown, 497 F.2d 247, 249 (2d Cir. 1972). See Morris v. Wolff, 495 F.2d 35, 37 (1974) (8th Cir. 1974); United States v. Criss,

435 F.2d 354, 358-59 (7th Cir. 1970). cert. denied, 402 U.S. 947 (1971).

The defendant's statements were not deceptively <sup>evoked</sup> ~~in~~ ~~the~~; rather Satterfield was advised of his Miranda rights, advised by both the agents and the Assistant United States Attorney that he had been indicted and waived such rights, including the right to counsel during questioning. Therefore inculpatory statements elicited subsequent to this full Miranda waiver are admissible. Boyd, supra at 249. Additionally, Satterfield was informed and fully aware of the crimes of which he was indicted -- sale of and conspiracy to sell heroin. In these circumstances, United States ex rel Lopez v. Zolker, 344 F. Supp. 1030 (S.D.N.Y. 1972), aff'd. without opinion, 465 F.2d 1403 (2d Cir.), cert. denied, 409 U.S. 1049 (1972) has no application and may be distinguished on a factual basis. In Lopez the defendant was indicted for first degree murder; he erroneously believed the charge to be manslaughter. The court therefore refused to rule that the defendant had knowingly waived his right to counsel and held inadmissible post indictment statements given in the absence of counsel. In the present case, Satterfield was under no such mistaken belief as to the nature of the charges against him and was capable of making an effective waiver of counsel.



RJC:wp

accompanied by fully admissible statements to Assistant United States Attorney Fortuin. See United States v. Dicks, 497 F.2d 391, 393 fn.3 (2d Cir.), ~~cert. denied~~, 419 U.S. 861 (1974).

In addition, the tape recorded statement made by Satterfield to Drug Enforcement Administration agents on April 19, 1976, is admissible. Satterfield had submitted a financial affidavit to the Magistrate. The Magistrate determined that Satterfield was not entitled to free counsel. Satterfield was then supposed to obtain his own attorney. Satterfield had indicated both at Drug Enforcement Administration Headquarters and at the United States Attorney's Office that he was willing to cooperate. Satterfield was informed that whatever cooperation he gave would be made known to the judge. Following the arraignment before the Magistrate, Satterfield was asked by the agent to come to Drug Enforcement Administration on Monday, April 19, 1976, since he had said he was going to cooperate. On Monday, April 19, 1976, Satterfield voluntarily came to Drug Enforcement Administration Headquarters. Satterfield was again <sup>warned</sup> ~~warned~~ of his rights and waived them. United States v. Dicks, ~~cert. denied~~, and made a voluntary statement.

CONCLUSION

For the foregoing reasons, the motion to suppress should be denied.

Respectfully submitted,

ROBERT B. FISKE, Jr.  
United States Attorney for the  
Southern District of New York  
Attorney for the United States  
of America.

ROBERT J. COSTELLO  
Assistant United States Attorney

- Of Counsel -



A 22

e Knapp

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 -----x

4 UNITED STATES OF AMERICA, :

5 -against- : 76 Cr. 376

6 REGINALD SATTERFIELD, :

7 RONALD WESTON and :

8 JAMES ARNOLD BYRD, :

9 Defendants. :

10 -----x

11 New York, New York  
12 June 30, 1976 - 10:30 a.m.

13  
14 BEFORE: HON. WHITMAN KNAPP,

15 District Judge

16 APPEARANCES:

17 ROBERT B. FISKE, JR., ESQ.  
18 United States Attorney for the  
19 Southern District of New York  
BY: ROBERT COSTELLO, ESQ.,  
Assistant United States Attorney

20 LAWRENCE FEITELL, ESQ.,  
Attorney for Defendant Satterfield

21 THOMAS MAZZA, ESQ.,  
22 Attorney for Defendant Weston

1 rklt

2 THE COURT: This motion is made on Mr. Fietell's  
3 affidavit which is adopted from an affidavit of your client?

4 MR. FEITELL: Yes.

5 THE COURT: Does the government wish to contravene  
6 any statements made in the affidavit?

7 MR. COSTELLO: I do, your Honor.

8 THE COURT: What statements do you want to  
9 contravene?

10 MR. COSTELLO: This morning I came prepared with  
11 witnesses to conduct a short hearing with respect to this,  
12 simply to point out, as I mentioned to Mr. Feitell in a  
13 telephone conversation late yesterday afternoon, that the  
14 government expects the testimony to show that Mr. Satterfield  
15 was informed that he was indicted.

16 He was so informed at DEA Headquarters.  
17 He was once again informed that he was indicted and given a  
18 copy of the indictment by Mr. Fortuin prior to any questioning.

19 Mr. Fortuin asked Mr. Satterfield if he wanted Mr.  
20 Fortuin to read the indictment to him. Mr. Satterfield  
21 indicated that he could read it himself.

22 He read the indictment.

23 Mr. Fortuin asked him if he understood the indict-  
24 ment. He said he did.

25 At that point Mr. Fortuin questioned Mr. Satterfield.



1 rklt

3

2 and elicited the statements indicated on the form that I  
3 believe your Honor has already seen.

4 Then Mr. Satterfield following that interview  
5 went down to the magistrate's office where Mr. Satterfield  
6 filled out a financial affidavit. I have a copy of that  
7 affidavit with me this morning, -- not a copy -- I have the  
8 affidavit he filled out.

9 The notation on it by the magistrate says:

10 "Not eligible."

11 I might also point out if I could backtrack for  
12 a moment, back at DEA Headquarters, after he was informed he  
13 was indicted, there was a conversation between the group  
14 supervisor, Mr. Coleman, and Mr. Satterfield, where Mr.  
15 Satterfield indicated at this time he was willing to cooperate  
16 with the government.

17 Mr. Coleman asked Mr. Satterfield if he had a  
18 lawyer. Mr. Satterfield said he did not. Mr. Coleman then  
19 told Mr. Satterfield that if he was indigent, the magistrate  
20 or the judge would appoint a lawyer for him and Mr. Satter-  
21 field responded, "If I am going to cooperate, what do I need  
22 a lawyer for?"

23 I think that brings us to the point back at the  
24 magistrate's office where Mr. Satterfield, as soon as he was  
25 brought down there, there is some delay in waiting for the

1 rklt

2 magistrate, who I believe was out to lunch at the time.

3 Agent Fenrich who was with Mr. Satterfield, gave  
4 Mr. Satterfield this financial affidavit. In fact, assisted  
5 him in filling it out.

6 Mr. Satterfield handed this up to the magistrate.  
7 The magistrate notes on the affidavit "Not eligible."

8 I might also point out during that appearance  
9 before the magistrate, the magistrate once again had a copy  
10 of the indictment. Mr. Satterfield had a copy of the indict-  
11 ment. The indictment was either read to Mr. Satterfield by  
12 the magistrate or Mr. Satterfield indicated he had previously  
13 read the indictment and understood it.

14 Following that, the government expects to show by  
15 the testimony that right after the arraignment, Mr. Satterfield  
16 and Agent Fenrich went into the magistrate's office for the  
17 purpose of filling out the personal recognizance bond and  
18 after that was done, Mr. Fenrich said to Mr. Satterfield  
19 that if he wanted to cooperate, he should come down to the  
20 Drug Enforcement Administration Headquarters on Monday and  
21 when he came there, to see Mr. Raab.

22 Immediately after that, Mr. Satterfield was  
23 released on bail -- was released on his own recognizance.

24 I should also point out that Mr. Satterfield at  
25 the time he was told if he wanted to cooperate he should come



rklt

5

1 down to the DEA Headquarters, indicated to the agent that he  
2 had a friend who was a New York City Police Department Captain  
3 and that he would discuss this with his friend as well as with  
4 his relative, I think Mr. Joseph Satterfield, who was the man  
5 who was supposed to come back to the magistrate's on Monday  
6 and co-sign the PRB.  
7

8 I think those facts as I have just stated them are  
9 somewhat in debate in light of the affidavit of Mr. Feitell  
10 that was adopted by Mr. Satterfield. I think we now have a  
11 different state of facts.

12 THE COURT: I don't think they refute the affi-  
13 davit, but they are a different set of facts.

14 MR. COSTELLO: That is correct.

15 THE COURT: Mr. Feitell, you heard that statement.  
16 What part of that statement do you wish to put in issue?

17 MR. FEITELL: In chatting here again with the  
18 defendant, there are numerous contradictions as to the version  
19 of the events depicted by Mr. Costello.

20 THE COURT: Let's see if we can isolate them and  
21 get our hearing to what is in issue and nothing else.

22 MR. FEITELL: With respect to the time of his  
23 arrest by the agents in the morning -- I should first point  
24 out he was arrested early in the morning based upon a telephone  
25 call that was posted by the agents under the color of their

1 rklt

2 wanting to have some tennis lessons. That is what the  
3 defendant does for a living, he gives tennis lessons, and  
4 this is the height of his season on the public tennis courts  
5 and elsewhere.

6 He came down early in the morning to meet a new  
7 client and the new client turned out to be the agents of the  
8 DEA.

9 THE COURT: That was unpleasant, but not  
10 unconstitutional.

11 MR. FEITELL: It shows a premeditated delay.  
12 They knew where to get him and instead of taking him immediate  
13 to the magistrate, they picked the time to get a hold of the  
14 defendant, made the defendant appear and casually took him to  
15 their headquarters, where they debriefed him, then took him to  
16 the United States Attorney's office.

17 With respect to the initial arrest --

18 THE COURT: Does the government dispute what he  
19 just said?

20 MR. COSTELLO: They picked the time when they  
21 arrested him?

22 THE COURT: Yes.

23 MR. COSTELLO: I don't dispute it. I don't think  
24 it is relevant. I am willing to stipulate that Mr. Satter-  
25 field was arrested at 10 o'clock in the morning.



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MR. FEITELL: The defendant tells me he has no recollection that the agents told him he was indicted. They said nothing to him.

THE COURT: That we must have testimony on.

MR. FEITELL: As far as what happened up in DEA Headquarters after his arrest, the defendant doesn't remember that he was told he was indicted.

THE COURT: You just said that.

MR. FEITELL: This was in the automobile too.

THE COURT: He doesn't remember that he was ever told he was indicted. You don't have to go through it each time. That is an issue.

MR. FEITELL: Then we get to Mr. Fortuin's office some time before his arraignment before the magistrate. At this point the defendant advises me now that he was shown an indictment or was advised that he was indicted.

THE COURT: Then I gather we don't need Mr. Fortuin's testimony because that is the only thing that occurred to me that was relevant.

MR. FEITELL: Insofar as what occurred before the United States Magistrate -- may I see the form that was filled out by the defendant with the help of an agent?

In front of the U.S. Magistrate he was advised again he was indicted.

1  
2 THE COURT: Once he knew it, the other times  
3 do not make any difference.

4 MR. FEITELL: As far as filling out the financial  
5 affidavit, I will have to raise the issue of whether or not  
6 the denial of his eligibility was properly founded on what is  
7 indicated on the face of this affidavit which I will hand up  
8 to your Honor.

9 It certainly does not indicate to me that this  
10 fellow had funds to retain an attorney at that time in that  
11 his debts exceeded the cash on hand, all that he had between  
12 himself and destitution was \$250 plus debts that were  
13 excessive.

14 THE COURT: We will receive this in evidence and  
15 I don't think it is relevant whether the magistrate made  
16 a mistake or not.

17 MR. FEITELL: I am suggesting it is relevant.

18 MR. COSTELLO: Your Honor, there is one small  
19 problem.

20 As you can see that is the original. One of our  
21 clerks under penalty of death got that from the court file.

22 THE COURT: Let it be deemed marked and we will  
23 substitute a copy.

24 (Government's Exhibit 1 was deemed marked and  
25 received in evidence.)

MR. FEITELL: After the arraignment, one of the



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agents told the defendant he had to come back to DEA Headquarters on Monday.

THE COURT: It seems to me what is in issue here, what the DEA agents told him.

MR. FEITELL: As to the defendant's state of mind he can take that up when he testifies and so far as having said that he was going to cooperate, he did not need an attorney, he denies that.

THE COURT: What is in issue is the conversations between the agents and this defendant.

Let us get the agents and proceed.

MR. COSTELLO: Just so I can limit this as much as possible, when you refer to the agents, are you talking about the agents at DEA Headquarters?

THE COURT: Where the agents said he was indicted, the discussion about him wanting to discuss it with a relative or friend that was a police captain and then the conversation with the agent and the defendant with respect to coming back on Monday.

MR. COSTELLO: In that case the government calls Group Supervisor Coleman.

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2 J O H N J. C O L E M A N, having been called  
3 as a witness on behalf of the government, having  
4 first been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. COSTELLO:

7 Q Mr. Coleman, how are you employed?

8 A Group supervisor with the DEA.

9 Q Directing your attention now to April 16, 1976,  
10 were you employed on that date?

11 A Yes, I was.

12 Q Were you on that date working in DEA Headquarters  
13 on 57th Street?

14 A Yes, sir.

15 Q During the course of your duties that day, were  
16 you present during the interview of one Reginald Satterfield?

17 A I was.

18 Q Would you tell the Court what happened during that  
19 interview when you arrived, what you said to Mr. Satterfield,  
20 what he said to you?

21 A Yes, sir.

22 The morning of April 16th I was advised by one of  
23 my agents named John Tole that Mr. Satterfield had been taken  
24 into custody shortly before that time. This would be some-  
25 where between 10 and 11 o'clock in the morning.



1  
2 I then left my office and went to the 18th  
3 floor which was one floor below my office to an interview  
4 room where I encountered Mr. Satterfield and one of the agents  
5 James Kibble and I was also joined by Agent Tole at that point.

6 I introduced myself to Mr. Satterfield by name,  
7 I advised him I was the supervisor of the arresting team and  
8 the case he was involved in .

9 I asked if Mr. Satterfield had been advised of  
10 his rights to which the agents stated he had and I asked Mr.  
11 Satterfield if he understood his rights and he told me he did.

12 I then advised Mr. Satterfield that he was under  
13 arrest for violation of the federal narcotic laws and  
14 specifically, he was under indictment in this district for  
15 conspiracy to violate the narcotic laws along with co-defen-  
16 dant Weston, Ronald<sup>2</sup> Weston .

17 THE COURT: You asked him if he understood his  
18 rights? Is that what you said or did you discuss the rights?

19 THE WITNESS: I asked him if he understood his  
20 rights to remain silent. I asked him if he had an attorney.  
21 He stated he did not have an attorney. I asked him if he would  
22 want an attorney and I recall that he made some statement to  
23 the effect that he did not understand too well why he was  
24 arrested.

25 I then gave him a very brief description of the

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2 conspiracy statute and advised him further details would be  
3 provided to him shortly upon being brought down here for forma  
4 processing, in addition to which, if he had an attorney, his  
5 own attorney would advise him as to the further details of  
6 the charge in the indictment.

7 At that point Mr. Satterfield had advised me that  
8 he had agreed to cooperate with the agents and advised us or  
9 would tell us as much as he knew about the narcotics business  
10 and his involvement in this particular situation.

11 I asked him if he had an attorney to which he  
12 advised me -- well, he asked my advice. He asked me if I  
13 thought an attorney was necessary since he agreed to cooperate  
14 and he was going to cooperate with us fully and tell us  
15 everything he knew.

16 On that basis, he himself advised me he didn't  
17 feel that he needed an attorney.

18 I told him he would have an attorney one way or the  
19 other when he was arraigned, because he would be arraigned  
20 before a judge in the District Court and he would have an  
21 attorney of his own choice or one appointed for him.

22 I inquired of his resources and he told me other  
23 than picking up money as a tennis instructor from time to  
24 time, he was not financially set to be able to afford an  
25 attorney.



I told him that if that was so, he could make an application to the Court and the Court would appoint an attorney for him.

This was essentially my conversation with Mr. Satterfield up to that point.

THE COURT: Was there any conversation between you two at that time as to the advisability of his going ahead and talking before he resolved his problem about an attorney?

THE WITNESS: Yes, sir.

I asked Mr. Satterfield if he wished to talk with us and he said he did. He stated to me he had not sold drugs to any of our people; that he had not been a drug seller, etc., and I asked him if he recalled a specific meeting with Mr. Weston and with one of our agents and he advised me that he did. However, it was his understanding, the way he explained it to me, that the fact he was at this meeting, after which no drugs actually were passed, this in his mind, or at least through the way he explained it to me, did not mean he was in violation of the law.

It was upon this sort of exchange that I advised him of the conspiracy nature of the actual charge and it was from this particular conversation that we led into his having or not having an attorney who perhaps more closely and in further detail explained the charge.

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Coleman-direct/cross

2 THE COURT: You said he specifically asked your  
3 advice as to whether he needed an attorney. What did you say  
4 to that?

5 THE WITNESS: At this point -- your Honor, in my  
6 estimation it was a rhetorical question. I didn't believe he  
7 was asking me specifically for my advice. He asked me what  
8 do I need an attorney for since I am cooperating with you  
9 people? And this was essentially the nature of his remark.

10 Q Mr. Coleman, the discussion that you just mentioned  
11 where Mr. Satterfield said "Why do I need an attorney if I  
12 am going to cooperate," was that before you interviewed him?  
13 Did you thereafter interview Mr. Satterfield with respect to  
14 the operative facts of this particular case outlined in that  
15 indictment?

16 A In further detail I did, although at that point  
17 I approached the idea whether Mr. Satterfield had in fact  
18 known Mr. Weston and had been present at the meeting.

19 MR. COSTELLO: No further questions.

20 CROSS EXAMINATION

21 BY MR. FEITELL:

22 Q With respect to advising the defendant of his  
23 rights, the Miranda warnings, did you take a card out and read  
24 it to him?

25 A I have a card in my wallet. I don't recall



specifically.

Q You did not do that?

A No.

Q You knew that the agents, your brother agents or your subordinates picked the defendant up previously?

A Yes.

Q And you believed based upon the instructions that have developed in your organization when the employees of this organization pick up somebody, they are supposed to give him his rights?

A Yes.

Q And you assumed that was being done, is that so?  
MR. COSTELLO: Objection. That is not what the testimony was. He did not say he assumed it.

THE COURT: It is cross examination.

Q That was something you assumed, that in the ordinary course the agents had given the defendant instructions as to his rights under the Miranda case?

A When I entered the room, I inquired immediately whether this had in fact taken place and I was advised by the agents and Mr. Satterfield he had been advised of his rights.

Q Didn't you tell us before on direct examination you had asked that question and had gotten the answer from the agents?

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Coleman-cross

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A Yes.

Q And they said they had given him his rights?

A Yes.

Q Is it your testimony now that you then proceeded to ask what particular rights the defendant was advised of?

A No, sir.

THE COURT: He did not say that.

Q The defendant just said he had received his rights?

A Yes.

Q And there wasn't any specific particularization of rights right down the line, 1, 2, 3, 4 in your presence?

A Not in detail.

Q And you therefore proceeded into the business of what you had come down to talk to the defendant about, is that right?

A Yes.

Q Why had you come down to talk to him?

A It is my practice, if possible, to interview defendants

Q Did you proceed to interview him?

A Yes.

Q At what point in the conversation did the issue of cooperation come up? Was that at the very start or later



1  
2 on?

3 A It was fairly immediate, actually. It was not a  
4 long period of time between the beginning of our conversation  
5 and the point that Mr. Satterfield advised he was going to  
6 cooperate.

7 Q Did you advise the defendant he had been indicted?

8 A Yes, I did.

9 Q What was the basis of your information on that?

10 A My knowledge of the indictment.

11 Q Had you seen the indictment at that point?

12 A No, sir.

13 Q Did you know what the defendant had been indicted  
14 for?

15 A Yes.

16 Q What was he indicted for?

17 A If I may --

18 Q What was your knowledge at that time, as to what  
19 he was indicted for?

20 A My knowledge was -- the case agent as such was  
21 Dwight Raab and my day to day dealings on this particular  
22 matter with Raab up to that point was, to advise me if and  
23 when an indictment was handed up so we could get a warrant for  
24 Mr. Satterfield's arrest.

25 I was advised perhaps the day before, several

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Coleman-cross

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2 days before, but in any event, a short period of time prior  
3 to the arrest that an indictment had been handed up and that  
4 an arrest warrant was issued and that Mr. Satterfield was  
5 susceptible to arrest at that point.

6 Q And it was based upon that information that you  
7 told him he had been indicted?

8 A It was based on that information, yes, sir.

9 Q And you told him he had been indicted for  
10 conspiracy, is that so?

11 A Yes, sir.

12 Q And you proceeded to explain the law of conspiracy  
13 as you understood it?

14 A As I understand it in a formal way.

15 Q Based upon what you told us previously under  
16 direct examination, you did not mention to him that he had  
17 been indicted on substantive counts of selling the narcotics  
18 and possessing the narcotics, did you?

19 A I did not go into that much detail, no.

20 Q You sought to explain to him what the law of  
21 conspiracy was in an effort to impress upon him what his legal  
22 responsibility was in the case, is that right?

23 A In part and also to explain to him in relevant  
24 terms to his involvement in the case what the conspiracy  
25 statute meant.



1  
2 Q He told you he did not understand why he was  
3 indicted?

4 A I don't recall Mr. Satterfield telling me that.

5 THE COURT: He said he didn't understand why he  
6 was arrested.

7 Q He told you he didn't know why he had been locked  
8 up, what he had done wrong?

9 A No. The exact expression or feeling that I got  
10 from what Mr. Satterfield said, it was his impression, it  
11 was his personal belief, that what he did, which he was not  
12 contesting, but what he did in his own mind, was not suffi-  
13 cient for him to believe he had violated a statute.

14 Q And you explained the law to him?

15 A Relative to matters of his involvement, how the  
16 conspiracy statute encompassed his activities.

17 Q Did you tell him in words or substance that his  
18 attorney could better tell him why he was arrested and what his  
19 legal responsibilities were if any in the case?

20 A It was during this discussion that I asked him if  
21 he had in fact had an attorney and if he had an attorney, I  
22 advised him perhaps his own attorney after obtaining a copy  
23 of the indictment which would be furnished at the arraign-  
24 ment, would be able to exactly advise him of the individual  
25 statutory regulations he was in violation of.

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Coleman-cross

Q So you told him in effect that the best place to get his information for his legal responsibility was his attorney, is that so?

A No, it was not the best and his own -- I was advising him in a manner which I felt he was understanding me by his responses and for further details in regard to the technical aspect of the indictment, the exact statutes, penalties and arrest, I told him his own attorney would advise him in closer detail of these facts.

Q These issues--

THE COURT: I think you have made your point.

Q These were things he was interested in?

A Yes.

Q So far as you know the defendant did not have a criminal attorney that represented him before?

A His response to me was he did not have a private or personal or family attorney.

Q Based on the information you had, he was never arrested for a crime before?

A I did not know that.

Q You were able to deduce that from a rap sheet?

A Not at that moment, no.

Q When the defendant said to you "If I am going to cooperate, what do I need an attorney for" -- what did you say



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Coleman-cross

21

2 to him?

3 A As best I can, as I said before, this was in a  
4 rhetorical fashion. It was not designed to get a response,  
5 an exact definite response from me. At that point it was  
6 apparent to me that Mr. Satterfield had made a full determina-  
7 tion to cooperate.

8 Q I am not asking you for the operation of your mind.  
9 I want to know what you said.

10 THE COURT: He is trying to give you the answer.

11 A At which point it was apparent to me the man was  
12 fully agreeing to cooperate and I said, let's get into it and  
13 find out what we know about Mr. Weston and how long have you  
14 known Mr. Weston.

15 At that point we engaged in a detailed conversa-  
16 tion as to the background.

17 Q It was your understanding based upon what he said  
18 you are telling us, in those words and those words alone and  
19 how he said them, that he did not want an attorney in?

20 MR. COSTELLO: Objection. That was not his  
21 testimony.

22 He said it was his understanding that Mr. Satter-  
23 field was going to cooperate.

24 Q How long have you been an agent?

25 A Eleven years.

1 rklr

Coleman-cross/redirect 22

2 Q You have been involved in cases --

3 THE COURT: Make your arguments later. You have  
4 your point.

5 Q Other defendants have had lawyers?

6 A Yes.

7 Q And those lawyers were available while they were  
8 cooperating?

9 A Yes.

10 THE COURT: This is argument. Get the facts.

11 Q You told the defendant he would have an attorney  
12 at the arraignment?

13 A Yes, sir.

14 Q And the way it turned out, when he was arraigned  
15 before the magistrate, he did not have an attorney?

16 A I was not present for the arraignment.

17 REDIRECT EXAMINATION

18 BY MR. COSTELLO:

19 Q Mr. Coleman, with respect to your conversation  
20 with Mr. Satterfield dealing with the arraignment possibility  
21 of securing an attorney, isn't it the fact that you told Mr.  
22 Satterfield that he would have an attorney appointed for him  
23 by the judge or the magistrate if he was indigent?

24 A Yes.

25 Q With respect to Mr. Satterfield indicating that he



1 was going to cooperate, to your knowledge was his statement  
2 to you, indicating he was going to cooperate, the first time  
3 he told any of your agents he was going to cooperate?  
4

5 A I was not present if he did in fact tell some other  
6 agents before I interviewed him, but my impression was --

7 MR. FEITELL: Objection.

8 THE COURT: Overruled.

9 A My impression was when I arrived in that room as  
10 a result of the conversation I had with Agent Tole that told  
11 me to come up, it was my understanding that Mr. Satterfield  
12 would cooperate.

13 RECROSS EXAMINATION

14 BY MR. FEITELL:

15 Q Isn't it a fact that every defendant that says  
16 he will cooperate does not cooperate?

17 A That is correct.

18 Q In many instances you find that a defendant says  
19 this in order to gain an early release.

20 A I wouldn't qualify the motivation, but your first  
21 statement was correct.

22 Q And the defendant had told you how he made his  
23 living?

24 A Yes.

25 Q What did he say on that?

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Coleman-recross

24

A He advised he was not financially well off. He advised that his only means of employment was as a tennis instructor and at best he earned just a nominal salary.

Q And he told you he wasn't regularly employed, except in connection with lessons?

A Tennis lessons.

Q So he was really self-employed. If he didn't teach, he didn't earn.

A Essentially, yes.

MR. COSTELLO: No further questions.

(Witness excused.)

THE COURT: Is it contested he was not in fact given his rights earlier?

This witness did not purport to give them.

MR. FEITELL: He summarized his belief.

I will find it out in a second.

(Pause.)

MR. FEITELL: He says he doesn't remember.

MR. COSTELLO: I have the agent here.

The government calls James Kibble.

J A M E S K I B B L E, called as a witness on behalf of the government, having first been duly sworn, testified as follows:



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Kibble-direct

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DIRECT EXAMINATION

BY MR. COSTELLO:

Q Mr. Kibble, how are you employed?

A Special agent with the Drug Enforcement Administration.

Q Directing your attention to April 16, 1975, were you working on that day?

A Yes.

Q Did you participate in the arrest of one Reginald Satterfield?

A Yes, I did.

Q Mr. Kibble, after Mr. Satterfield was arrested, were you present at any time when Mr. Satterfield was informed of his Miranda rights?

A Yes, I was.

Q Will you tell us when that was done and who did it?

A After we arrested Mr. Satterfield, we entered the car approximately one minute after. Agent Tole advised Mr. Satterfield of his rights.

Q How did he do that?

A Verbally.

Q Was he reading from a card?

A I think he had them memorized.

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Kibble-driect

THE COURT: What did he say?

THE WITNESS: He advised him he had the right to remain silent. He had the right to an attorney. Anything he said to us could be used against him in a court of law. If he did not have money for an attorney, an attorney could be appointed to him.

THE COURT: Is that all he said?

THE WITNESS: I imagine he went through the whole Miranda warning at the time.

MR. FEITELL: Objection.

MR. COSTELLO: I didn't ask the question.

Q Mr. Kibble, after Mr. Satterfield was placed in the car and was given his rights by Agent Tole, did you then go to the Drug Enforcement Administration Headquarters?

A Yes, we did.

Q Was Mr. Satterfield then processed?

A Yes, he was.

Q By processed, do you mean Mr. Satterfield was fingerprinted and photographed?

A Yes, sir.

Q Was Mr. Satterfield at that point given his Miranda rights again?

A Yes, sir.

Q Who gave him his rights?



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Kibble-direct/cross

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1  
2 A I am not sure, but somebody did give him his  
3 rights in the office.

4 Q How were those rights given? Were they read from  
5 a form?

6 A No, I believe they were given verbally, out of  
7 memorization.

8 Q And you don't know which agent gave them?

9 A Offhand, I can't remember.

10 MR. COSTELLO: No further questions of this  
11 witness.

12 CROSS EXAMINATION

13 BY MR. FEITELL:

14 Q When you were in the automobile with the defen-  
15 dant shortly after his arrest, you say he was given certain  
16 advice as to rights?

17 A Yes.

18 Q And some of that advice related to his getting an  
19 attorney?

20 A Yes.

21 Q What was said about that?

22 A I can't remember the exact words. I was driving  
23 the vehicle and Agent Tole, who was a little more experienced  
24 than I was, gave him his rights.

25 Q Did you tell us before he was told if he could not

1 rklt

Kibble-cross

28

2 afford an attorney, one would be gotten for him?

3 A I believe that is part of the Miranda warning,  
4 yes.

5 Q But you do not have a specific recollection that  
6 that was said?

7 A At this time I would be guessing if that was  
8 said, if I said yes.

9 Q So you were not too sure what was going on  
10 behind you?

11 A I know he was given his rights, that he had the  
12 right to remain silent, that everything he said could be used  
13 against him in a court of law.

14 THE COURT: I take it what you are really saying  
15 is, you would have noticed if it hadn't happened?

16 THE WITNESS: Yes, sir.

17 Q So those three items that you say were given to  
18 him, was there anything else given?

19 A I imagine the full Miranda warning was given to  
20 him.

21 THE COURT: Are you saying it is your practice to  
22 give the Miranda warning after an arrest and if it didn't  
23 happen you would remember it and you don't remember this be-  
24 cause it is a long time ago and it was one of a hundred?

25 THE WITNESS: Yes.



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Kibble-cross

29

Q What happened in the automobile?

A Mr. Satterfield was a little upset. He said to us that we had the wrong person. I continued to drive. The trip took approximately fifteen minutes. We arrived at the headquarters, took him up and processed him.

Q Was he weeping?

A Yes.

Q He broke down and cried in the automobile?

A Yes.

Q Were you with him up at Drug Enforcement Administration Headquarters?

A For a short time, yes.

THE COURT: Was he still crying when you got to headquarters?

THE WITNESS: Intermittently, yes, sir.

Q At a point in time at headquarters, his shoes were taken off?

A I believe he was strip searched, yes.

Q They took his shoes off?

THE COURT: Did they take all his clothes off?

THE WITNESS: Normally when you process a prisoner, you strip search him. It is standard procedure.

Q Did you see that happen?

A I think I was in the room. Two agents must be

1 rklt

Kibble-cross

2 present.

3 Q You were one of them?

4 A Yes.

5 Q Who was the other?

6 A I believe Agent Tole was there. There may have  
7 been three of us.

8 Q Did you hear any discussion take place at the DEA  
9 Headquarters?

10 A Concerning what?

11 Q Anything with the defendant.

12 A Yes.

13 Q What was said to the defendant and what did he  
14 say, if anything?

15 A A lot of conversation transpired.

16 Q Tell us about the discussion respecting counsel,  
17 what was said about his right to counsel?

18 A Well, at one time during the conversation prior  
19 to my leaving, Group Supervisor Coleman came into the room  
20 and identified himself. He asked Mr. Satterfield if he was  
21 advised of his rights. I think he told Mr. Satterfield that  
22 Agent Told and myself, the supervisor, he asked him if he  
23 wanted to make a call to his lawyer.

24 He might have asked him a couple of other things.  
25 I departed at that time.



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Kibble-cross

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Q What did the defendant say in answer to that?

A I can't remember offhand.

Q Incidentally, before you came to court today and took the stand, did you have any conversation with Supervisor Coleman about the case?

A Regarding this?

Q Yes.

A Not specifically, no.

Q You gentlemen did not have a meeting at all this morning or yesterday about what your testimony was going to deal with today?

A The only conversation we had regarding the case was with Mr. Costello, the United States Attorney.

Q And you were all in the same room talking about the case?

A No. I believe when questions were asked by Mr. Costello, I know I was sitting there. I don't know who was in the room with us. There were a couple of fellows out in the hallway.

Q There was someone in the room while you were being questioned besides Mr. Costello?

A I believe the young lady sitting next to him.

Q There were no other agents?

A There might have been. I had my back to the door.

1 r klt

Kibble-cross/redirect 32

2 Q Did you ever hear the defendant ask any questions  
3 about the advisability of his getting an attorney at DEA  
4 Headquarters?

5 A Offhand, I can't remember, sir. I left to  
6 process some evidence while the actual interview took place.

7 THE COURT: Any redirect?

8 MR. COSTELLO: Very short.

9 REDIRECT EXAMINATION

10 BY MR. COSTELLO:

11 Q Mr. Kibble, with respect to the conversation you  
12 had with me yesterday, do you remember me telling you to get  
13 off the particular phone you were on and put another agent on  
14 and you indicated you were hanging up and you were not at the  
15 same extension the other agent was so you wouldn't hear what  
16 he was saying?

17 A Yes.

18 Q With respect to the interview of Mr. Satterfield,  
19 at Drug Enforcement Administration Headquarters, would it  
20 refresh your recollection if I said that Group Supervisor  
21 Coleman gave Mr. Satterfield his rights?

22 MR. FEITELL: Objection. It is an improper  
23 form of refreshing his recollection. It is obviously leading.

24 MF. COSTELLO: Leading questions are permissible.

25 THE COURT: Does it refresh your recollection or



1  
2 doesn't it?

3 A I was asked by Mr. Coleman if he had been advised  
4 of his rights. As far as giving Mr. Satterfield his rights  
5 again, I cannot recall whether that took place.

6 MR. COSTELLO: No further questions.

7 (Witness excused.)

8 MR. COSTELLO: I would like to recall Agent  
9 Coleman for a moment to ask him about the rights.

10 THE COURT: He said he didn't gave them to him.

11 MR. COSTELLO: He said he gave them -- he started  
12 to tell you the rights he gave them. We did not develop  
13 that any further.

14 THE COURT: My impression is he said he relied on  
15 the fact they were given to him before.

16 MR. FEITELL: That was your question to him.

17 J O H N J. C O L E M A N, recalled.

18 REDIRECT EXAMINATION CONTINUED

19 BY MR. COSTELLO:

20 Q Mr. Coleman, back at Drug Enforcement Administra-  
21 tion Headquarters, after you inquired of the agents whether  
22 Mr. Satterfield had been given his Miranda rights and you  
23 inquired of Mr. Satterfield whether he had been given his  
24 Miranda rights and both individuals told you they had, did you  
25 then give Mr. Satterfield the Miranda rights?

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Coleman-redirect

34

2 MR. FEITELL: Objection.

3 THE COURT: Tell us.

4 A I asked Mr. Satterfield if he understood what his  
5 rights were and he looked at me and said "Yes."

6 I said, "Do you realize you have the right to  
7 remain silent and you have the right to an attorney?"

8 And he said "Yes."

9 And I asked him -- actually he was crying. He  
10 was whimpering at this point and I said, "What is the  
11 problem?" I was trying to find out from him what his situation  
12 was and he said he didn't know why he was arrested or what he  
13 was arrested for and I started my conversation by advising  
14 him of some of the charges, the conspiracy and the indictment  
15 and he started to talk and I advised him what he was going to  
16 say or if he had anything to say, could and would be used  
17 against him in court and I told him he didn't have to say  
18 anything.

19 I also mentioned the DEA had an active investiga-  
20 tion and that he was part of the investigation and that it was  
21 my understanding and belief that he could provide information  
22 to us that would be of value to that investigation.

23 I told him however, I did not want him to provide  
24 this information if he felt he would incriminate himself  
25 unless he wished to do so voluntarily.



1 I asked him if he understood he was under no obli-  
2 gation to talk to me and he said he did.

3 I asked him if he had an attorney and he said no.

4 I asked him if he wanted an attorney and he said  
5 he didn't need one right then.

6 THE COURT: He said that?

7 THE WITNESS: Yes, sir.

8 He said, "I don't need one right now. I'll tell  
9 you whatever you want, but I don't know very much."

10 MR. COSTELLO: No further questions.

11 RECROSS EXAMINATION

12 BY MR. FEITELL:

13 Q When you were carrying on this question, who was  
14 in the room besides yourself and Mr. Satterfield?

15 A I believe Agent Tole and Agent Kibble.

16 Q They heard --

17 A Agent Fenrich also, from time to time.

18 Q Were they there throughout your interrogation or  
19 discussion with him?

20 A Yes, sir. One or more may have left from time to  
21 time. As long as there was one of us or two of us present  
22 at all times to guard the individual.

23 Q Had his clothes been taken off?

24 A No, sir.  
25

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Coleman-recorss

36

Q Did you know that his shoes had been removed?

A No.

Q At any time from the time he was brought to DEA Headquarters, up to and including the time that you were dealing with him, did you have any knowledge that he had been stripped?

THE COURT: Strip searched?

MR. FEITELL: Stripped. Searched is something else.

A It is part of the searching process.

Q To strip search?

A To search and sometimes strip search.

Q Do you know if he was stripped?

A I have a vague recollection he may have been strip searched.

Q You noticed he was quite emotionally upset?

A Yes.

Q You say he was whimpering and crying?

A Yes.

Q And it was while he was in this emotional state that you were talking to him, is that so? Part of your conversation with him took place while he was actually heaving and sighing and weeping?

A That is perhaps a little bit more of a



1 description than how he was behaving.

2 He wasn't actually weeping, crying. He didn't  
3 need a handkerchief. He was emotionally upset and was very  
4 resigned, like the whole house had fallen down on him. In  
5 fact, if anything, I was trying to be encouraging.  
6

7 Q You were trying to be nice to him?

8 A Yes.

9 Q Incidentally, before coming here today, did you  
10 meet with Mr. Costello and the other agents to discuss the  
11 testimony?

12 A I met Mr. Costello at 9:30 in the morning.

13 Q Did you speak to him on the phone yesterday?

14 A Once or twice on the phone.

15 Q Where was that?

16 A Up at my office.

17 Q And the other agents were there who were  
18 involved in the case?

19 A In and out from time to time.

20 Q While you were talking to him on the phone?

21 A No, they were not present while I was talking to  
22 him.

23 Q Were you in a three-way conversation with other  
24 agents and Mr. Costello about today's testimony?

25 A No. I had a three-way conversation yesterday

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Coleman-recross

with somebody else, but it wasn't this case.

Q Before taking the stand this morning, did you have any discussions with Mr. Costello and the other agents?

A Yes.

Q You met in his office?

A Yes.

Q Who was there?

A Mr. Costello, his assistant, there was Agent Tole, Agent Kibble, Agent Fenrich, Agent Taylor, Agent Raab.

Q And there in this discussion, you all talked about what happened up at the DEA and the arrest?

A We were individually briefed or questioned or interviewed by Mr. Costello.

THE COURT: The point he is trying to get, when you were individually briefed, were the others there?

THE WITNESS: They were in the area. They were not perhaps in the room at all times.

Q They might have been in the room too?

A They might have been.

Q There wasn't this procedure where each agent was told you wait out in the hallway, I want to speak to you individually. That did not happen?

A To my knowledge, while I was there, it did not.

Q Nobody was told "Get out of the room, wait



1 outside, I am taking you one at a time"?

2 A I couldn't say. I was outside the room when  
3 everybody else was being questioned.

4 MR. FEITELL: Do you have any material for me  
5 to look at?

6 MR. COSTELLO: Absolutely not. You are not  
7 entitled to it even if I had it.

8 MR. FEITELL: That is all I have.

9 (Witness excused.)

10 MR COSTELLO: The government calls Andrew  
11 Fenrich.

12 A N D R E W G. F E N R I C H, called as a  
13 witness on behalf of the government, having first  
14 been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. COSTELLO:

17 Q Mr. Fenrich, how are you employed?

18 A Special agent with the Drug Enforcement  
19 Administration.

20 Q How long have you been a special agent?

21 A Approximately three years.

22 Q Directing your attention to April 16, 1976, were  
23 you working on that day?

24 A Yes, I was.

1 rklr

Fenrich-direct

40

2 Q Mr. Fenrich, did you accompany Mr. Reginald  
3 Satterfield from the U.S. Attorney's office to the magistrate  
4 office?

5 A Yes, I did.

6 Q When you arrived at the magistrate's office,  
7 will you tell the Court what happened?

8 A We arrived at the office. The magistrate was  
9 not yet present in his office. I gave Mr. Satterfield the  
10 financial statement form to fill in.

11 In actuality, I helped him fill parts of it in.

12 Q What was done with that form, to your knowledge?

13 A After we finished filling it in, it was given to  
14 Mr. Fortun, who gave it to the magistrate.

15 Q I take it Mr. Satterfield was thereafter arraigned  
16 before the magistrate?

17 A That is correct.

18 Q And he was released on a personal recognizance  
19 bond, is that correct?

20 A That is correct.

21 Q To be co-signed?

22 A It had to be co-signed by someone else.

23 Q After the arraignment before the magistrate, did  
24 you accompany Mr. Satterfield into the magistrate's clerk's  
25 office next door?



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Fenrich-direct

41

1  
2 A Yes, I did.

3 Q Was that so the bond could be filled out?

4 A That is correct.

5 Q Did you have a conversation with Mr. Satterfield  
6 at that point?

7 A After he finished completing his paper work for  
8 the bond and before he went down to the marshal's office to  
9 be processed, I had a conversation with Mr. Satterfield and  
10 told him if he were serious about his cooperation with DEA,  
11 he should come to our office Monday morning.

12 Q What if anything did Mr. Satterfield say to you?

13 A He said he would be at our office Monday morning.

14 Q Did Mr. Satterfield say anything with respect  
15 to consulting with anyone?

16 A He said he had a friend, I believe it was a police  
17 officer, a captain in the New York City Police Department or  
18 a lawyer, something like that, that he was going to speak,  
19 with.

20 Q Did he indicate he was going to speak with any  
21 relatives?

22 A He said he was going to speak with his brother-in-  
23 law or brother. I don't remember which it was.

24 MR. COSTELLO: No further questions.  
25

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Fenrich-cross

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## CROSS EXAMINATION

BY MR. FRITELL:

Q When first after the defendant was arrested did you see the defendant Satterfield?

A I was there at the arrest in front of the Armory on Fifth Avenue.

Q Did you participate in the arrest?

A Yes, I did.

Q With respect to his transportation to DEA Headquarters, did you participate in that?

A No, I had a car of my own. I was in a separate car.

Q When again did you see the defendant after his arrest?

A At DEA Headquarters.

Q What time was that, about?

A I would approximate 10:30.

Q Where did you see him?

A In the processing room at headquarters.

Q Did you have any conversation with him?

A I was present for part of the interview of Mr. Satterfield.

Q What did you hear if anything?

A Most of it was going over the background



information on Mr. Satterfield.

Q Were you present at any time when your group supervisor was there?

A Yes.

Q Mr. Coleman?

A Yes.

Q Were you there when Mr. Coleman came or did you come after Mr. Coleman was there?

A I was in the room when Mr. Coleman got there and left shortly thereafter.

Q About how long did you spend in the room after Mr. Coleman got there?

A A matter of minutes. Mr. Tole was there and Mr. Coleman came in at which point in a couple of minutes, I left to take care of something.

Q What if anything happened when Mr. Coleman came in?

A He introduced himself and told Mr. Satterfield he was a group supervisor, that he was arrested and what he was arrested for, etc.

Q Did you hear what Mr. Coleman said about his being arrested?

A That he was arrested on narcotics charges and what the charges were. That it was something about conspiracy.

1 rklt

Fenrich-cross

2 Q He told him he was arrested in connection with  
3 conspiracy for narcotics?

4 A Yes.

5 Q Was there any discussion about what was going  
6 to happen next?

7 A There probably was. I don't recall. I couldn't  
8 say.

9 Q Do you recall hearing anything else that Mr.  
10 Coleman said?

11 A I really don't recall. In what light?

12 Q Anything that Mr. Coleman may have said to him  
13 after he came into the room? You were there for such a  
14 short period of time, there couldn't have been much that he  
15 said.

16 A Yes.

17 Q He came in and introduced himself and told the  
18 man what he was arrested for?

19 A Yes.

20 Q He said he was arrested?

21 A Yes.

22 Q Do you recall it ever mentioned that the defen-  
23 dant was indicted?

24 A I don't recall.

25 Q Did you hear any other discussion in the room?

A That is all I can recall, sir, I'm sorry.



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Q Just those two or three little things that happened and that is all you recall?

A That is correct.

Q How long transpired after that before you saw the defendant again?

A A half an hour.

Q Incidentally, what time was it when you left the room, do you have any idea?

What time did you get down to DEA Headquarters?

A Maybe a quarter after 11.

Q You say after you left the room that you saw him a half hour later.

A Approximately.

Q Would that be somewhere in the neighborhood of 12 noon or after?

A Before that.

Q Did you hear any further discussions with the defendant and anyone else when you saw him a second time at DEA Headquarters that morning?

A There were discussions but nothing that I recall. There was small talk.

Q Did there come a time when you went down to the U.S. Attorney's office with Mr. Satterfield?

A Yes.

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Fenrich-cross

2 Q When was that?

3 A 12:30. It was early afternoon.

4 Q Did you ever tell the defendant he had been  
5 indicted?

6 A No, sir, not that I recall.

7 Q You were there when he was arrested, right?

8 A That is correct.

9 Q What did the agent say to him when he was  
10 arrested, right there out on the street?

11 A We simply said we wanted to talk to him. He  
12 came over to us and we informed him he was under arrest.

13 Q Did you show him any pieces of paper?

14 A No.

15 Q Any arrest warrants?

16 A No, sir, I did not.

17 Q Incidentally, did you have an arrest warrant  
18 with you?

19 A I did not.

20 THE COURT: Did either of you?

21 THE WITNESS: Not that I know of, your Honor.

22 MR. FEITELL: May I have the form?

23 THE COURT: What does he know about it?

24 MR. FEITELL: There is some other element he  
25 brought up. He said he helped him fill it out.



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Q What did you help him fill out?

A I filled in the charge where it says "Charge or Offense" on the form. I put in the specific statute on the form.

Q That is your handwriting?

A Yes, it is.

Q Did you have any discussion with him regarding any of the other content of the affidavit, any of the other questions to be replied?

A I believe in the section "Debts and Monthly Bills," he asked me about child support, whether that could be included in that section of debts and monthly bills and I answered in the affirmative.

THE COURT: What is the relevance of that form?

MR. FEITELL: I am practically finished -- that is all I have.

MR. COSTELLO: I have no further questions.

(Witness excused.)

MR. COSTELLO: The government has no further witnesses. I think that defines the matters in dispute. I don't know whether it clarifies them. Mr. Satterfield has submitted an affidavit. I trust at the very least he is going to submit himself to cross examination.

MR. FEITELL: I don't need encouragement if you

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2 let me go on with my part of the case.

3 THE COURT: Proceed.

4 MR. FEITELL: Take the stand.

5 REGINALD SATTERFIELD, called as a  
6 witness on his own behalf, having first been duly  
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. FEITELL:

10 Q How old are you, Mr. Satterfield?

11 A 35.

12 Q Have you ever been convicted of a crime?

13 A No, I haven't.

14 Q What is the extent of your education?

15 A Four years of college, BS degree.

16 Q Have you ever been arrested by a police officer?

17 A No.

18 Q Put into handcuffs or anything like that?

19 A No.

20 Q Or taken away to a police station and interrogated?

21 A No.

22 THE COURT: Is there any significance in that  
23 question, have you ever been arrested by anybody other than a  
24 police officer?

25 MR. FEITELL: I want to know if he has had prior



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Satterfield-direct

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involvement.

THE COURT: Never been arrested?

THE WITNESS: No.

Q On April 16, 1976, did there come a time that you saw the agents who testified?

A Yes.

Q Where did you see them?

A The Fifth Avenue Armory where I give tennis lessons.

Q Incidentally, at that time what were you doing for a living?

A Teaching tennis.

Q What are you doing for a living?

A Teaching tennis.

Q Where do you teach tennis?

A At the present time?

Q Yes.

A I have a concession in one of the parks run by the New York City Parks Department which is at 207th Street and Broadway, called Inwood Park.

Q You teach tennis to the public if they sign up with you?

A Yes I do.

Q On this particular morning when you saw these

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Satterfield-direct

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2 agents, on April 16, 1976 , how come you came to be there  
3 at that time?

4 A On Thursday I got a call at the Armory where I  
5 teach inquiring about a lesson, the rates. It sounded kind  
6 of strange because the person --

7 Q I don't want to get into that kind of detail.

8 Did you show up on the morning of April 16th?

9 A I showed up to give this lesson I had arranged to  
10 give.

11 Q Were you accosted by agents?

12 A Yes.

13 Q What happened?

14 A First, they showed me a badge and said they  
15 wanted to take me in for questioning. They handcuffed me and  
16 put me into the car.

17 Q Up to that point, were you told you were under  
18 arrest? Was the word arrest used?

19 A They picked me up to question me. I was under  
20 arrest.

21 Q Did they tell you you were under arrest or that  
22 they wanted to question you? Which, or both?

23 A I believe they said I was being picked up for  
24 questioning. I don't know about being arrested.

25 THE COURT; You are not sure?



A 72

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Satterfield-direct

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THE WITNESS: I am not sure.

Q How many officers were there?

A I believe three.

Q What happened next?

A I was put in the car in the back seat with one of the agents and there was some silence for a while.

Q Did you know why you were stopped?

A No, I didn't.

Q Did anybody up to that point when you were put into the vehicle tell you you were under indictment and that is why you were being picked up?

A No.

Q In the vehicle, what happened?

A We were driving down Harlem River Drive and there was silence and I asked a question, what was I being picked up for, what was going on and they said "You don't know?" and I said, "No, I don't."

They said, "Do you know Weston?"

I said, "I knew Weston," and they said, "He is involved in narcotics. We have information that you are connected with him."

And I said, "Connected in what way?"

And they asked leading questions, "What about the time you were seen in a bar with Weston," and these kind of

1 rklr

Satterfield-direct

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2 questions.

3 Q With respect to what happened in the automobile,  
4 at any time while you were talking to the agents in the  
5 automobile, did they tell you what your Miranda rights are?

6 A I don't believe so.

7 Q Where were you taken?

8 A I was taken to their office on 57th Street.

9 THE COURT: When you say you don't believe so,  
10 what do you mean?

11 THE WITNESS: From my experience later on that  
12 day, Mr. Fortuin read something verbatim in terms of my rights  
13 and I was kind of emotional in the car and I don't recall  
14 anybody pulling out a card and reading certain rights to me.

15 THE COURT: Keep your voice up.

16 THE WITNESS: When I was in the car going down  
17 to 57th Street, I was weeping and very emotional because I  
18 didn't really know why I was being picked up and handcuffed  
19 and I don't recall anyone pulling out a card and reading  
20 certain rights to me in terms of a right to counsel, a right  
21 to remain silent.

22 THE COURT: You don't recall hearing it?

23 THE WITNESS: No.

24 THE COURT: When is the first time you remember  
25 hearing it?



1  
2 THE WITNESS: I believe the supervisor when he  
3 came in later to interrogate me and asked me had I been read  
4 my rights.

5 THE COURT: What did you tell him?

6 THE WITNESS: I told him I thought I had.

7 THE COURT: What made you tell him you thought you  
8 had if you can't remember?

9 THE WITNESS: Things are kind of fuzzy. I was  
10 doing most of the talking, talking about my relationship and  
11 they were telling me how best I could help out.

12 Q You have no recollection that you heard anything  
13 about rights in the car?

14 A Not to my recollection.

15 Q I am not asking you whether you remember seeing  
16 a car pulled out. I am asking you what you remember hearing.

17 Do you remember hearing any of these so-called  
18 Miranda rights in the car?

19 A Not to my knowledge.

20 Q When you got to DEA Headquarters, there was a  
21 period of time before you saw the group supervisor, Coleman,  
22 is that right?

23 A Yes.

24 Q How much time elapsed after you got there before  
25 you saw him, if you can recall?

1 rklr

Satterfield

2 A It seemed like a long time. Maybe a half hour,  
3 because I was fingerprinted three or four times because it  
4 didn't take. I was photographed maybe two or three times  
5 because that apparently didn't come out or maybe they take  
6 two or three films of you.

7 Then I was asked to take my shoes off, then I just  
8 kind of sat there for a while and asked did I want anything  
9 to drink and there were a lot of agents walking in and out.

10 I would say maybe an hour.

11 THE COURT: Did they tell you why they wanted you  
12 to tak your shoes off?

13 THE WITNESS: No. They just said to take your  
14 shoes off.

15 Q What did they do with your shoes?

16 A I put them on the side.

17 Q Did they pick them up and search them?

18 A I guess they looked in the shoes.

19 Q Did they? Are you guessing or do you recall having  
20 seen that?

21 A All I can recall is taking my shoes off and they  
22 examined my shoes.

23 Q At any time during the procedures down at DEA  
24 did you weep?

25 A Yes, I was still very emotional.



1 rklr

Satterfield-direct

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2 Q Can you describe that for us?

3 A I just felt weak. I told them I was feeling sick  
4 because when I get nervous, I get indigestion. I have to go  
5 to the bathroom or something and that is the way I felt the  
6 whole time, very weak. I felt alone.

7 Q You say you felt alone?

8 A Yes.

9 Q You had all of these agents with you?

10 A I didn't feel anyone was on my side. I didn't  
11 think I had any involvement. That was my feeling and I  
12 thought there was no one there to help me out. I remember  
13 saying to one of the agents that I felt alone.

14 THE COURT: Could we take a break now?

15 (Recess.)

16 THE COURT: Proceed.

17 BY MR. FEITELL:

18 Q Did you intend to waive any of your constitutional  
19 rights in the automobile?

20 A No, I didn't.

21 Q With respect to what happened at DEA Headquarters  
22 what was your state of mind?

23 A The same.

24 Q Were you distraught?

25 A Very much so.

1 rklt

Satterfield-direct

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2 Q You wept?

3 THE COURT: We have all of that.

4 MR. FEITELL: I have to make a record on this.

5 THE COURT: You have your record. The government  
6 said he was distraught. What more do you want?

7 MR. FEITELL: I want to know his state of mind.

8 THE COURT: He told you.

9 Q Did you intend to waive any of your rights at  
10 DEA Headquarters?

11 A No.

12 Q Do you have any recollection that anybody gave you  
13 your rights at DEA Headquarters? Your constitutional rights?

14 A Not to my recollection.

15 THE COURT: You did tell the agent that you had  
16 gotten your rights.17 Q Do you remember the testimony of Agent Coleman  
18 to the effect that he told you and the agents whether you had  
19 been advised of your rights?

20 THE COURT: He told you he remembered it.

21 MR. FEITELL: Judge, I am trying to develop some-  
22 thing. I will make an offer of proof and you will see if I  
23 am wrong.

24 THE COURT: What is your offer of proof?

25 MR. FEITELL: He is trying to tell me he probably



yes to this man because he would have agreed to anything in his state of mind.

Q Do you have any specific recollection that you told Coleman that you had received your rights? Do you understand the question?

A Would you restate the question?

Q Do you have any specific recollection that you told Agent Coleman that you received your rights?

A Not specifically.

THE COURT: When I asked you that question, you told me you did.

THE WITNESS: I guess I answered the question incorrectly, because I really don't remember. I don't recollect.

THE COURT: When I asked you, did you tell him that, why did you say yes, you did?

THE WITNESS: I was saying yes to everything.

THE COURT: Are you saying yes to everything now when I ask you a question?

THE WITNESS: No, your Honor.

Q At any time did you say to Agent Coleman in words or substance, "I don't need an attorney, I am cooperating"?

A No.

Q Did you ever have any discussion with Agent

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Satterfield-direct

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Coleman or any of the other agents up at DEA Headquarters that you recall about getting an attorney for yourself?

A No, I don't.

Q Before you were taken to the magistrate, were you taken before Mr. Fortuin?

A Yes.

Q Do you have any idea what time of the day that was?

A Early evening.

Q The early evening?

A I think it was after 12 or 1.

Q In the afternoon?

A Yes.

Q He proceeded to ask you various questions?

A Yes, he did.

Q What was your state of mind, your emotional condition at that time?

A I wasn't weeping. I was still feeling nervous, not sure what was going on.

Q Did you want an attorney?

A I wanted somebody.

Q Were you interested in having an attorney?

A Yes, I was.

Q You told us before, just before the break, that



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Satterfield-direct

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you felt alone?

A Yes, I did.

Q Did you want somebody to talk to about this case, somebody on your side?

A Yes.

Q As to what to do?

A Yes.

Q When you were at DEA Headquarters, based upon anything in your past life that you knew or understood, was it your understanding that you were supposed to have an attorney there?

A I thought it was automatic that you have legal counsel when you are interrogated. Unless there was an opportunity for me to get on the phone and call an attorney.

Q Did you have a private attorney?

A No, I didn't.

Q Did you have the money to afford an attorney?

A No.

Q Incidentally, how much money did you have in your pocket when you were arrested.

A About \$25.

Q Then you were brought down from Mr. Fortuin's office to the U.S. Magistrate?

A Yes.

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Satterfield-direct

Q Do you remember what happened there?

A I stood before him. Mr. Fortuin I guess discussed the case with him and told him --

THE COURT: What magistrate was it?

MR. COSTELLO: I don't know the name of the magistrate.

Q During those proceedings, did you seek to have an attorney assigned to yourself?

A Yes.

Q Was that because you wanted an attorney?

A Yes.

Q And you didn't have money to pay for one?

A No, I didn't.

Q A form was given to you to fill out?

A Yes.

Q And you needed help in filling it out?

A I guess I did.

Q You spoke to the agent or the agent offered to help you?

A Offered to help me out.

Q How were the agents treating you up to that time?

A \_By then, they were sort of trying to calm me down I guess, telling me I didn't really have anything to worry about, to relax, that kind of thing.



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Satterfield-direct

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2 Q Did they tell you in words or substance they  
3 were going to see to it that you were able to leave there and  
4 go home?

5 A Yes.

6 Q That day?

7 A Yes.

8 Q Did you get the impression from them one way or  
9 the other it was entirely up to them whether you could leave.

10 A I did.

11 Q Emotionally and mentally when the magistrate told  
12 you you are not qualified for Legal Aid assistance, how did  
13 you feel?

14 A I felt kind of left out in the cold.

15 Q Did you know what you were going to do next to  
16 get an attorney?

17 A No, I didn't. I had no idea.

18 Q Do you remember the agent that said a bond was  
19 filled out, a PRB? Do you remember having a conversation  
20 with him after the arraignment?

21 A He said something about wanting me to come down to  
22 the DEA office on Monday, after I had brought my brother down  
23 to co-sign the bond.

24 Q About what time in the afternoon or early evening  
25 if it was on Friday, April 16th, was it, when you finally left

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2 the courthouse?

3 A It was between 4 to 4:30, maybe 4:30 to 5.

4 Q At that hour, even, did you know anybody to call  
5 for legal assistance?

6 A No, I didn't.

7 Q Stepping back in time a little bit, in or around  
8 the magistrate's office, this Agent Fenrich, he told you in  
9 words or substance to come back on Monday morning?

10 A YES.

11 Q Will you tell us, please, what each person said,  
12 what you said to him, how that conversation started off? Did  
13 he start it or did you?

14 A I didn't start it. He started the conversation.

15 Q What did he say?

16 A He said, "Come in on Monday to discuss what you  
17 could do for us, once you have brought your brother to co-sign  
18 the bond." I was then advised to come by the DEA office.

19 Q You mean your brother was supposed to come back to  
20 this courthouse on Monday morning with you to sign the bond?

21 A Yes, which he did.

22 Q And you were supposed to be up to DEA Headquarters  
23 on 57th Street?

24 A Yes.

25 Q You understood that as an instruction?



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Satterfield-direct

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A I thought it was the procedure.

Q Did you have any idea if you didn't show up at DEA Headquarters on Monday, what they would do to you?

A I don't know what I would have been subject to. I just thought it was part of the procedure.

THE COURT: What does your brother do for a living?

THE WITNESS: He works for the New York City Transit Authority. He is a dispatcher.

Q Over the weekend, did you have any discussions with any lawyers about what to do?

A No, I didn't.

Q Did you know any lawyers to talk to?

A Not offhand.

Q Were you able to pull together any money to get a lawyer?

A No.

Q Some mention has been made of a person in the Police Department that you allegedly mentioned to one of the agents as a person you knew that you were going to turn to for some advice.

On Friday, when you were leaving the courthouse or before leaving the courthouse to go home, had you told any agents you were going to discuss this matter with a detective

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Satterfield-direct

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or police captain over the weekend?

A No, I didn't.

THE COURT: Did you say anything about a detective or police captain?

THE WITNESS: I did, but not on Friday. Once I had gone to DEA on Monday and spoken with the agent.

Q You mean the following Monday, you came back?

A Yes. That evening, when I left or the next morning, I called my friend, who is a deputy inspector and told him I had a situation and I had this copy of an indictment in my hand and he told me to come to his office.

I went out to his office in Brooklyn and he looked over the indictment and told me the involvement and he asked me did I sign any statements and he told me it was the worst thing I could have done. He told me to get myself a lawyer.

Q And that was in April?

A Yes.

Q Then some time down in June, did you get a telegram from the United States Attorney's office telling you to show up in court with a lawyer?

A Yes.

Q Was it about that time that you met me?

A Yes, it was.



1  
2 Q When you showed up on April 19th at DEA Head-  
3 quarters and gave a statement, was it your impression that  
4 you had to go there?

5 A I thought I did. I thought it was part of the  
6 procedure.

7 Q Were you afraid --

8 THE COURT: He already said it. Don't repeat.

9 MR. FEITELL: That is all I have.

10 CROSS EXAMINATION

11 BY MR. COSTELLO:

12 Q Mr. Satterfield, you said when you were arrested  
13 and put into the automobile you were in a distraught state of  
14 mind, is that correct?

15 A Yes.

16 Q In fact, you said you were weeping intermittently.

17 A I was weeping. I was actually crying.

18 Q Is it your testimony that during the course of that  
19 automobile ride, you were not given your rights by the agents?

20 A I don't recall being given my rights.

21 Q You don't recall?

22 A No, because the conversation was basically --  
23 all I can remember about the conversation was why I was being  
24 picked up, my involvement and I kept going over why I was  
25 being picked up, what I had done, where was I going from here,  
what was going to happen that day, those kind of things.

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Satterfield-cross

2 Q Do you know what I mean by rights?

3 A I know now what you mean by rights.

4 Q When did you find out?

5 A I found out in Mr. Fortuin's office when he read  
6 me my rights verbatim.

7 Q And it was only at that time that you remember  
8 hearing your rights?

9 A Yes, hearing clearly and distinctly.

10 Q So you don't remember getting your rights in the  
11 car?

12 A No.

13 Q And you don't remember getting your rights at  
14 DEA?

15 A I don't remember -- all I can remember is the  
16 supervisor asking me was I read my rights.

17 Q What did you answer him?

18 A I said I probably was.

19 Q Did you say you probably were, or did you say yes?

20 A I said yes, but I don't remember them being  
21 read. I said yes to him, because I am sure that is the  
22 procedure, I guess.

23 Q So when you said yes, you didn't mean yes, did  
24 you?

25 A I didn't mean what I said because I couldn't



1 remember. I couldn't recollect.

2 Q What did you mean when you said yes?

3 A I just meant yes.

4 Q Yes, you had been read your rights?

5 A Yes.

6 Q And at that point you didn't know what the word  
7 "rights" meant?

8 A Not in the context of law.

9 Q I know before in your direct examination you  
10 said you don't recall anybody pulling out a card and giving  
11 you your rights including right to counsel, right to remain  
12 silent; is that what you said?

13 A Yes.

14 Q So you know now that your rights included a right  
15 to counsel and a right to remain silent?

16 A I recall when I saw the card it was at the DEA  
17 office on Monday when the agent pulled out this card.

18 Q Prior to talking to Mr. Fortuin, you did not know  
19 that your rights meant a right to counsel and a right to remain  
20 silent, is that what you are telling us?

21 A Yes.

22 Q And you don't recall whether anybody had read you  
23 those rights prior to talking to Mr. Fortuin?

24 A That is right.  
25

rklt Sattelfield-cross

Q How is your memory of the events in the car and at the DEA?

A Clear and not so clear.

Q How is it with respect to whether or not you were given your rights, clear or not so clear?

A Not clear.

Q So that particular part of what happened either in the car or at DEA is unclear but other parts are very clear to you?

A By that time I had calmed down a little bit and things were getting in focus because the agents were seemingly trying to calm me down because they had kind of assured me that my role was small, if I could help them out, I could get released today without even putting up any bail, that I could be released on a personal recognizance bond so my whole emotion had calmed down and I was clear on things that were said to me.

Q From that point on, everything was clear to you?

A Reasonably clear.

Q Prior to that, things were unclear because you were in an emotional state?

A Or unclear because of the fact it probably wasn't even said

THE COURT: I didn't get that.



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Satterfield-cross

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THE WITNESS: Or unclear because I don't remember them being said.

Q Is it your testimony that it wasn't said, that your rights were not given to you in the car?

A My testimony is that I don't remember.

Q Is it your testimony that your rights were not given to you at DEA?

THE COURT: Don't repeat those things.

Q You did state, however, when you got to Mr. Fortuin's office, he did give you your rights?

A Yes.

Q At that time things were clear to you and you had calmed down?

A Yes.

MR. COSTELLO: May I have this marked as Government's Exhibit 2?

(Government's Exhibit 2 was marked for identification.)

Q Mr. Satterfield, I show you what has just been marked as Government's Exhibit 2 for identification. I ask you to look that over and specifically, direct your attention to page 5 of a seven-page document -- excuse me, to page 7 of a seven-page document.

Look down at the bottom of that page and tell me

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Satterfield-cross

2 if you recognize any of the signatures on the page.

3 A I recognize mine.

4 Q Have you previously seen that document before?

5 A At Mr. Fortuin's office.

6 Q Prior to signing this document, did you read it?

7 A It was given to me to read.

8 Q Did you read it?

9 A I scanned it.

10 Q Did you read it?

11 A Scanning is reading.

12 Q In other words, you did read it?

13 A I looked it over.

14 Q Did you make certain changes in it after you read  
15 it over?

16 A No.

17 Q You did not?

18 THE COURT: Is this very significant?

19 MR. COSTELLO: Yes, your Honor.

20 Q Mr. Satterfield, I direct your attention to the  
21 bottom part of page 7.

22 MR. FEITELL: Objection. It hasn't been offered  
23 in evidence on this hearing and I haven't seen what is shown.

24 THE COURT: He can't offer it until he gets  
25 through.



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MR. FEITELL: It should be identified marginally.

MR. COSTELLO: It has been identified.

MR. FEITELL: I want to see that.

THE COURT: You will.

Q Read the bottom part of that page to yourself.

A Which paragraph?

Q The bottom half of the page until you go down to the end of the page.

Have you read it?

A Yes.

MR. COSTELLO: The government offers Exhibit 2 in evidence.

THE COURT: Show it to counsel.

MR. FEITELL: No objection.

(Government's Exhibit 2 was received in evidence.)

Q Mr. Satterfield, let me just show you page 7 again since there has been a brief interlude.

Have you read the bottom half of that page?

A Yes.

Q Does that refresh your recollection as to whether you made certain changes prior to signing it?

A No, it does not.

Q Let me draw your attention to the very last three

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Satterfield-cross

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2 lines.

3 THE COURT: Is that your handwriting?

4 MR. COSTELLO: No, only his signature at the  
5 bottom.

6 Q Were you asked to read over this statement and if  
7 it is true, to sign it?

8 A Yes.

9 Q And you signed it, is that correct?

10 A Yes.

11 Q Mr. Satterfield, do you remember the questions  
12 that were asked of you by Mr. Fortuin in the United States  
13 Attorney's office?

14 A Possibly.

15 Q Do you remember Mr. Fortuin asking you prior to  
16 speaking to the agents, did they advise you of your rights,  
17 the way I did, and you answered "Yes"? Do you remember that?

18 A Questions were asked.

19 Q Do you remember that question?

20 A I don't know that I remember that question  
21 specifically. A lot of questions were asked being asked of  
22 me.

23 Q You did read that statement prior to signing it,  
24 didn't you?

25 A Yes. I couldn't segregate that question from all



1  
2 the other questions.

3 Q Did you tell Mr. Fortuin prior to speaking to him  
4 the agents had read you your rights in the same manner that  
5 Mr. Fortuin did?

6 A I don't remember.

7 Q And this document does not refresh your recollec-  
8 tion?

9 THE COURT: Drop it. That is enough.

10 Q Mr. Satterfield, you stated on direct examination  
11 that while you were in the automobile with the agents immedi-  
12 ately after your arrest, you did not intend to waive your  
13 rights, is that correct?

14 A I don't remember saying that. I did not intend  
15 to waive my rights.

16 Q But it is also your testimony that you did not  
17 know what your rights were at that time?

18 A If I remember being told that I could waive my  
19 rights, I am sure I would have said no, I wouldn't waive my  
20 rights.

21 THE COURT: If you had been told, you wouldn't  
22 have waived them?

23 THE WITNESS: No.

24 Q If you had been told?

25 A Yes.

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Satterfield-cross

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Q And you don't recall that you were told?

A No.

Q Mr. Satterfield, is it your testimony that you did not at any time at Drug Enforcement Administration Headquarters say to any one of the agents that you did not need an attorney because you were cooperating?

A No.

Q Is that your testimony?

A Yes.

Q Is it also your testimony that at no time while you were at Drug Enforcement Administration Headquarters did you ask for an attorney?

A No, I did not.

Q You didn't just tell that to Mr. Feitell on direct examination?

THE COURT: If he told it to Mr. Feitell on direct examination, why repeat it?

MR. COSTELLO: Apparently Mr. Satterfield does not remember what he told Mr. Feitell, much less, what happened three months ago.

THE COURT: All right, you have made your point.

Q Mr. Satterfield, do you recall the testimony of Agent Fenrich concerning filling out the form for the magistrate?



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1  
2 A Yes.

3 Q Do you recall Mr. Fenrich stating that you asked  
4 him a question concerning child support, whether that could  
5 be put down?

6 A If I remember --

7 Q Do you recall Mr. Fenrich saying that?

8 A I recall me putting it down, child support.

9 Q Do you recall Mr. Fenrich saying that this morning

10 A Yes.

11 Q Was that true or not true?

12 A I don't remember that, either. My recollection  
13 is I had put down child support as an indebtedness.

14 THE COURT: Without asking him?

15 THE WITNESS: Yes.

16 Q Mr. Satterfield, are you currently married?

17 A No, I am not.

18 Q Are you divorced?

19 A Separated.

20 Q Do you have a separation agreement?

21 A No.

22 MR. FEITELL: Objection.

23 THE COURT: What has that got to do with anything?

24 MR. COSTELLO: I am leading up to a question  
25 concerning Mr. Satterfield's knowledge of where to get an

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Satterfield-cross

2 attorney.

3 THE COURT: Go ahead.

4 MR. FEITELL: I don't think there is any connec-  
5 tion at all.

6 THE COURT: We will see. He may have had a  
7 separation agreement by F. Lee Bailey for all I know.

8 Q Mr. Satterfield, did you discuss your separation  
9 agreement or anything relating to your separation with an  
10 attorney at any time?

11 A No.

12 Q Mr. Satterfield, you referred before on direct  
13 examination that you had a friend who is a deputy inspector  
14 in Brooklyn?

15 A Yes.

16 Q And you called that friend on Monday, the 19th of  
17 April?

18 A It was either Monday or Tuesday.

19 Q And you knew his telephone number, did you not?

20 A I knew his home phone number.

21 Q Did you attempt to call the deputy inspector on  
22 Friday, April 16th?

23 A No, I didn't.

24 Q Did you attempt to call him on Saturday the 17th  
25 or Sunday the 18th?



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Satterfield-cross

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A No.

Q Did you discuss going down to Drug Enforcement Administration Headquarters on Monday the 19th with anybody on Friday the 16th, Saturday the 17th or Sunday the 18th?

A No, I didn't.

Q You did not?

A No.

THE COURT: Tell me something about, when was the first time you mentioned this deputy inspector to the agents?

THE WITNESS: After I had gone down Monday, I was supposed to have come back again Thursday to the DEA office to see Mr. Raab. After I spoke to the deputy inspector, I called Mr. Raab and told him I couldn't come because I spoke to a friend of mine that was a deputy inspector and some friends and they advised me I don't know anything, there is no point in coming down to the office.

THE COURT: How well do you know this deputy inspector?

THE WITNESS: Very well.

THE COURT: Are you social friends or relatives?

THE WITNESS: Social friends. I met him through tennis.

THE COURT: How long have you known him?

THE WITNESS: Six years , probably.

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2 THE COURT: You have been to his office before?

3 THE WITNESS: The first time I have ever been to  
4 his office.

5 THE COURT: Have you been to his home?

6 THE WITNESS: No. Just see him on the tennis  
7 courts.

8 Q Mr. Satterfield, when you had this discussion  
9 with the deputy inspector, I believe on your direct examina-  
10 tion you told the Court that the deputy inspector told you to  
11 get yourself a good lawyer?

12 A Yes.

13 Q Some time after that, you retained Mr. Feitell?

14 A Yes.

15 MR. COSTELLO: No further questions.

16 REDIRECT EXAMINATION

17 BY MR. FEITELL:

18 Q When you were up in Mr. Fortuin's office and he  
19 proceeded to ask you a lot of questions -- is that right?

20 A Yes.

21 Q While he was asking you questions, was he writing  
22 something on a piece of paper?

23 A Yes.

24 Q Were you standing over his shoulder looking at  
25 everything he was writing down?



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Satterfield-redirect

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2 A No.

3 Q Or were you sitting some distance away from him?

4 A In front of his desk.

5 Q With regard to what you knew about the facts of  
6 the case, that is, the drugs, and how you came by them, if  
7 you did, etc., or this powder or package that is involved in  
8 this statement that you finally wound up signing, that infor-  
9 mation that you gave to Mr. Fortuin that he wrote down, you  
10 had already given that to the agents, isn't that so?

11 A Yes, I had.

12 Q In fact, up at DEA Headquarters, this is what  
13 you had told them?

14 A Right.

15 Q So those facts were already out on the table by  
16 the time you saw Mr. Fortuin, right?

17 A Yes.

18 Q When he gave you the statement to look over and  
19 sign, did you have any feeling one way or the other when he  
20 wanted you to sign it?

21 A I assumed I had to sign it.

22 Q Is that why you signed it?

23 A Yes.

24 Q Did you want to please Mr. Fortuin?

25 A I wanted to do what was right.

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Satterfield-redirect

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Q You were hoping to get out that day?

A Yes, I was. That was my main concern.

Q Did you have any feeling if you didn't sign it, you might not walk out of the courthouse?

A I had been detained overnight.

Q That is why you signed it?

A Yes.

Q You were going along with anything that Mr. Fortuin wanted, is that right?

A I just wanted to go home and get out of there.

Q And you didn't want to say or do anything that was going to upset that?

A Exactly.

Q When he gave it to you, did you read it over word for word, like a legal document?

A I scanned through the statement.

MR. FEITELL: That is all.

THE COURT: What is this last statement here that I have?

MR. FEITELL: That is Mr. Weston's statement.

THE COURT: Okay.

MR. COSTELLO: No recross.

BY THE COURT:

Q You had this chat with the deputy inspector and



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1 what day was that?

2 A I am sure Tuesday morning.

3 Q What is the date?

4 MR. COSTELLO: Tuesday, April 20th.

5 Q He told you to get a lawyer?

6 A Yes.

7 Q What took you so long?

8 A Talking to different lawyers and finding out how  
9 much it was. I had to try to find somebody within reason. It  
10 took me a while to come up with the money and the best lawyer.

11 Q You finally got the best lawyer?

12 A I think I did.

13 Q When did you get him?

14 A The early part of June.

15 Q When was the date?

16 MR. FEITELL: The first week in June, right after  
17 he got a telegram and was told to show up in court.

18 A Mr. Fortuin told me if I didn't have a lawyer by a  
19 certain time, it would be difficult for me.

20 THE COURT: That is all.

21 (Witness excused.)

22 THE COURT: Mr. Satterfield, there was an earlier  
23 conference you did not come to.

24 THE DEFENDANT: I never got that telegram. Then  
25

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2 I was informed that I was supposed to have come and I didn't  
3 come and I eventually got a telegram on June 1st. I was  
4 waiting for the telegram that the agent said I was going to  
5 get.

6 MR. FEITELL: That is all the defendant has on  
7 this motion.

8 THE COURT: Does the government have anything  
9 further?

10 MR. COSTELLO: No, your Honor.

11 THE COURT: I have considered this motion very  
12 carefully and there are two problems here.

13 In the first place, is the problem of delay. The  
14 motion wasn't made until June 28th.

15 The is nothing I have heard here that an attorney  
16 shouldn't have found out in his first conference with the  
17 defendant.

18 MR. FEITELL: May I speak to that?

19 THE COURT: You certainly may.

20 MR. FEITELL: In trying to unravel this in these  
21 conversations with the defendant was extremely difficult as  
22 to exactly what the temporal breakdown was, the chronology.  
23 I got the impression after talking with him and finding out  
24 what I could in the case, that everything happened on one day.  
25 That is, that the defendant was picked up in front of the



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1  
2 Armory, taken to DEA Headquarters, and I got the mistaken  
3 impression it was during that visit that he gave a tape  
4 recording incriminating himself and then that he went over  
5 to -- he was brought over to Mr. Fortuin's office.

6 I thought it all happened on one day. I didn't  
7 think there was a weekend in between, and I didn't know  
8 initially what had happened down in the magistrate's office  
9 with respect to his having to come back on Monday. I never  
10 knew he came back on Monday. I never knew that anything of  
11 that sort had happened.

12 I had a conversation about a week or so ago in  
13 court when I showed up in connection with Mr. Mazza's motion,  
14 I spoke to Mr. Fortuin, and I was very troubled about quite  
15 another issue, Brown v. Illinois. I didn't see why the defen-  
16 dant was arrested. I didn't think there had even been an  
17 indictment issued.

18 He showed me the papers finally and gave me the  
19 chronology. The indictment came down on April 14th. The  
20 defendant was arrested on April 16th and the defendant showed  
21 up in DEA Headquarters on the 19th. That was the first time  
22 I knew that the defendant had come back after a weekend to  
23 deliver himself of the further statement.

24 I brought him back immediately to talk about this  
25 and even then he wasn't too clear but after going over it

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2 repeatedly, I got the framework of a motion and that is what  
3 I delivered up to your Honor.

4 You are not always dealing with people when you  
5 come into a case late to begin with, and there is a march goin  
6 on that you have to hurriedly catch up with and I didn't  
7 want to bring on ill-founded motions and I spoke several times  
8 to Mr. Fortuin to get my discovery.

9 Then I had meetings with Mr. Mazza, trying to catch  
10 up to everybody after these months of delay and I was  
11 determined not to generate a motion just for the purpose of  
12 generating a motion but after I was able to develop some  
13 background in the case, all these things came to fore at  
14 once and I speedily got my motion and it is before the trial.

15 I don't think the government had been prejudiced  
16 in any way. We do work under these difficulties. This is the  
17 only case I have.

18 THE COURT: The government has been prejudiced in  
19 the way I will develop shortly.

20 MR. FEITELL: I am a one-man operation. Even  
21 Abe Lincoln had a partner. My stenographer and secretary was  
22 taken away from me on jury duty. That was another problem I  
23 had in generating a set of papers.

24 THE COURT: I must say, the defendant has no very  
25 persuasive reason why he waited so long until he got ahold



1  
2 of you. I remember myself directing that he be notified  
3 at doing something to obtain an attorney.

4 MR. FEITELL: I don't know what efforts he made.  
5 I heard him say he was trying to get other attorneys.

6 I haven't been in the case that long, your Honor,  
7 and I put a lot of work into it since I have been here.  
8 It isn't a case where counsel has been neglectful.

9 THE COURT: The government may or may not have  
10 been prejudiced as I shall develop shortly.

11 Putting aside the question of laches, if this  
12 motion had been made timely, my observations are as follows:

13 In the first place, I accept the testimony of the  
14 agents substantially as to what happened. Whether or not the  
15 defendant told the agent that he was going to talk to his  
16 friend the police officer at that time or whether he did not,  
17 I make no finding on that.

18 Defendant says he did not, and that is why I  
19 asked the defendant when he first had mentioned this inspector  
20 and he said he mentioned him because he used him as his reason  
21 for not keeping a subsequent appointment.

22 It strikes me as quite likely that the agent by  
23 this time has gotten those two events mixed up, but it is not  
24 significant.

25 So, I do not make any finding that this defendant

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2 told the agent prior to leaving on Friday that he was going  
3 to discuss the matter with his friend, the police officer.

4 I don't know how significant it is. However,  
5 I do not assume that he did not discuss the event with his  
6 friend, the police officer, between Monday and Friday, but he  
7 obviously had a chance to discuss it with his brother.

8 I find that the warnings were in fact given by the  
9 DEA both based on their testimony, based on the witness'  
10 admission, that he told his group supervisor that -- he told  
11 the group supervisor that he received his warnings based on  
12 the fact that he told Mr. Fortuin that he had gotten the  
13 same warnings from the DEA as he had gotten from Mr. Fortuin  
14 and based on the testimony of the DEA agent.

15 So I find that the DEA agent acted in good faith  
16 throughout.

17 I am not saying that the defendant is lying at  
18 this moment. In fact, I think he was trying his best to be  
19 truthful and typically of a witness trying to be truthful, he  
20 says he doesn't remember when a direct answer would be to his  
21 disfavor.

22 The average layman believes that is a truthful  
23 answer.

24 My impression is when he answered he didn't  
25 remember he had blotted it out more or less consciously,



1 because the answer would have been unfavorable. I wouldn't  
2 say he even succeeded in blotting it out, but I find the  
3 agents were truthful in their testimony and that these things  
4 happened.  
5

6 That brings the case not within any authority of  
7 which I am aware, but if this were a timely motion and I  
8 mean timely so the government would have a chance to appeal my  
9 position in time for the trial, my attempt to rationalize the  
10 decision, to be able to deal with this matter, I would say  
11 that once an indictment is returned, from that point on a  
12 defendant may proceed without a lawyer, if he wants to. He  
13 needs more than just Miranda warnings for the government to  
14 permit him to follow that course. That thought was fore-  
15 shadowed in Judge Frankel's opinion.

16 He raised the question in his opinion whether  
17 it was possible at all to waive Massia.

18 In Judge Hayes' opinion in United States v. Barone,  
19 the question is kind of left open. Judge Hayes specifically  
20 pointed out that the defendant had had a telephone conversation  
21 with his lawyer before waiving the rights. As I read that  
22 opinion, Judge Hayes was suggesting he probably got advice from  
23 his lawyer, but if I was dealing with a fully timely motion,  
24 I would rule that after an indictment has been returned for the  
25 government to continue questioning a defendant without an

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2 attorney. it would be up to the government to give him that  
3 kind of advice, comparable to what a judge would have to give  
4 a defendant before permitting him to proceed on trial without  
5 an attorney.

6 In other words, it should be necessary do do more  
7 than merely give him his Miranda rights. It should be explain  
8 to him how foolish it is to proceed without an attorney once  
9 an indictment has been returned.

10 The testimony of the group supervisor -- I came  
11 to this conclusion before I heard the testimony of the group  
12 supervisor.

13 The testimony of the supervisor dramatizes in my  
14 mind the rationality of that kind of a rule. Here this  
15 defendant obviously was operating under the opinion that he  
16 could do himself some good because he really wasn't guilty.  
17 The group supervisor doesn't remember whether he thought it  
18 was rhetorical, maybe it was, but he asked his advice as to  
19 whether he should get an attorney. At least he said "What  
20 do I need an attorney for?"

21 The group supervisor took that as rhetoric.  
22 Perhaps it was, but the difference between before indictment  
23 and after indictment is very significant. After indictment  
24 it is impossible for the defendant to make a deal with the  
25 prosecutor unless the consent of the Court is obtained, which



1  
2 is typically an attorney's function to deal in that kind of  
3 a situation. The sides had been chosen and the government has  
4 announced definitively by returning an indictment that it has  
5 a case, it has a prosecutable case against him, against  
6 this individual upon which he could proceed to trial without  
7 further evidence.

8 If it didn't have that, it shouldn't have returned  
9 an indictment.

10 Therefore, the situation is quite different than  
11 prior to indictment.

12 Now, the Miranda rule in and of itself isn't a  
13 gem of logic as the dissenting opinion that case demonstrates  
14 rules derived from conflicting cases from the Miranda ruling  
15 is not a gem of logic. What I would do in this case, if the  
16 government had a right to review it, would be to so declare my  
17 view of the law.

18 That brings us to the question of whether the  
19 government has been prejudiced by the delay and I am going to  
20 resolve that question in this way:

21 If on Friday, by Friday, having considered this  
22 rule I have laid down the government tells me that they  
23 believe it to be erroneous and they believe an appellate  
24 court would reverse it, I will then deny your motion on  
25 grounds of laches and permit the government to proceed with

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2 the case That as I see it will have this affect:

3 There will either be a conviction or there  
4 won't. If there is not, we needn't trouble ourselves further.  
5 If there is a conviction, you will have a clear appeal and  
6 if the Court of Appeals agrees with me, it will be irreversible.

7 I cannot see in light of what I have heard, I  
8 cannot conceive it will be de minimus with a tape recorded  
9 conversator nor can I say the Court of Appeals if it agrees  
10 with me, the government went ahead after my views are known.

11 If the Court of Appeals disagrees with me, nobody  
12 has been hurt by the laches, because if the motion had been  
13 made promptly, I would have ruled as I would have ruled and  
14 it would have been reversed, so we are exactly where we would  
15 have been had the motion been timely made.

16 MR. FEITELL: May I answer to some of these things?

17 THE COURT: Yes.

18 MR. FEITELL: I have been in this case less than  
19 30 days. You have a motion before you before trial. The case  
20 in the Court of Appeals indicates that a motion made before  
21 trial to suppress is a timely motion. What is the laches of  
22 either the defendant or his counsel in this case? It is a  
23 word that your Honor has employed that I most respectfully  
24 suggest to you really has no basis when put against the  
25 background of the realities that we have to deal with.



1  
2 THE COURT: Forgetting about laches or not laches,  
3 am I not right in my analysis? If the Court of Appeals agrees  
4 with me, you are out. If the Court of Appeals doesn't agree  
5 with m, you are in.

6 MR. FEITELL: Then the word to use is not laches.  
7 I say there are elements of expedience that may have some  
8 relationship to the proper administration of justice.

9 THE COURT: Laches includes not only what you  
10 state, but your client taking so long to get a lawyer.

11 MR. FEITELL: Then this brings us back to what  
12 happened before the magistrate.

13 THE COURT: Listen, at least after the magis-  
14 trate he had a two-hour discussion with a deputy inspector  
15 of police, and by that time if he didn't know he needed a  
16 lawyer and how to get one, he has his brother, who is a  
17 dispatcher with the Transit Authority, he had a two-hour  
18 conversation with the deputy inspector of police and by that  
19 time if he doesn't know enough to get a lawyer, I don't know  
20 how he will ever find out.

21 I must say --

22 MR. FEITELL: I didn't do anything in this case  
23 except take, as soon as the facts became available.

24 THE COURT: You aren't charged with laches of your  
25 client. He can't sit around after having been advised by a

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deputy inspector of police, he could sit around and not do anything when put his lawyer in this position.

MR. FEITELL: He did things.

THE COURT: He hasn't satisfied me sufficiently.

Anyway, there is no point in discussing these arguments. Am I not correct in my statement that justice will be accomplished by this method? Either I am right or I am wrong.

MR. FEITELL: Intellectually you are right, I would say, but pragmatically, in terms of reality, you are wrong, because when the Court of Appeals gets the case against the background of the evidence that is going to be developed in the case, the pulls that are going to exist, the benefits are going to be adverse to the defendant on the basis of a full record.

There is a spill-over, and you know, Judge, he was only arrested on April 16th. Who delayed more in this case; the defendant or the government? The transaction took place October 30, 1975. That is the last delivery of drugs. Look at all the months they waited and this case is not even three months old and here he is being found guilty of laches and all he tarried, if he tarried at all, is two months, which is not terribly much.

THE COURT: I don't buy your spill-over doctrine.



Normally I would, but if the government, which they may for all I know, but if the government on this invitation tells me they think I am wrong and they want to appeal, there will not be any spill-over. You will have the point right there and you have to discuss the point before anything else.

MR. FEITELL: We are leaving it to the government now whether we have a right to appeal or whether we are going to sit here during this trial?

THE COURT: Apparently I haven't made myself clear in that I have not told you what I previously discussed with my law clerk.

The reason for the laches is, had I made this decision at an earlier date, the government could have gotten it reviewed before trial. That is the prejudice to the government.

MR. FEITELL: How much earlier? When I came into the case --

THE COURT: That is part of it.

MR. FEITELL: Who knows if any other lawyer would have seen the issue?

THE COURT: I will grant you he got the best lawyer in the world, but he should have gotten him sooner.

MR. FEITELL: It is a heavy penalty for the defendant to pay to have to sit through this trial and face

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2 this jury when he has a viable, valid, constitutional right  
3 that your Honor respects and this is important, yet when you  
4 place it on the balance of justice, you say it is wanting  
5 because of some delay that an indigent defendant made.

6 Here is a constitutional right that has less  
7 weight than his so-called neglect.

8 THE COURT: If I was so sure I was right, I  
9 would feel differently. I am not so sure.

10 MR. FEITELL: Here we have a motion made by my  
11 co-counsel here. He has a motion which is still undecided  
12 for a severance because the statements made by the two defen-  
13 dants or three of them, do not interlock under the cases.

14 The case is less than three months old. In all  
15 probability, the way the Court of Appeals is working these  
16 days, with all due respect, this case would not be reached  
17 for a decision. It is still a young case.

18 Why can't it be adjourned? What is the big rush?  
19 The other defendant is in jail in connection with another  
20 case. My client is trying to make a living on a daily basis  
21 teaching tennis lessons in the summer time. As he sits here,  
22 he is losing his 15 or 20 dollars that he could make today.  
23 This is really hurting him to have to go to trial in this  
24 case, especially when your Honor has a conscientious feeling  
25 about the merits or the constitutional grounds.



1  
2 Why can't we be forced to have an expedited appeal  
3 and I will come back here in the summer time and have his case.  
4 If the Court of Appeals can hear the case, they can hear it  
5 before the end of August and aren't there a million other  
6 cases that are able to come in here? To give so little  
7 value to a constitutional point when it emerges and let the  
8 defendant suffer through the ordeal of a trial, most  
9 respectfully, I understand the pressure of the Court in  
10 wanting to go forward with its work, but sometimes the Court  
11 should release its hold momentarily and let other factors  
12 fall into place.

13 In the long run, wouldn't it have been better for  
14 everybody and more consistent with fair dealing to one and  
15 all to delay the case a short while and let the government  
16 take its appeal and let the issue be tested? We could do  
17 that by July, we could do it by August. This is not a big  
18 record. The cases have been briefed.

19 THE COURT: We have two co-defendants -- he was  
20 superseding?

21 MR. COSTELLO: Yes.

22 MR. FEITELL: He comes into the superseder as a  
23 new defendant.

24 THE COURT: The cases have to be tried together.

25 MR. FEITELL: Maybe it doesn't. The Courts have

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2 said as I understand the opinions, if there is no valid  
3 reason for not trying the defendants together, they should be  
4 tried together, but here we finally discern a reason that is  
5 constitutionally based and the case is so, your Honor.

6 It is a very young case, as cases go. It is not  
7 even 90 days.

8 THE COURT I am not impressed with your worry  
9 about spill-over. In the first place, the government may  
10 agree with me. In the second place, I am not impressed with  
11 your worry about spill-over. And in the third place, the  
12 trial will be about three days -- how long?

13 MR. FEITELL: Who knows? I am not exactly very  
14 brief.

15 THE COURT: If there is a conviction, I will  
16 continue his bail if this point is kept open. I won't make  
17 any promises if this point is not kept open, but if it is kept  
18 open, I will continue his bail.

19 MR. FEITELL: If the point is kept open?

20 THE COURT: If the government doesn't take this  
21 position --

22 MR. FEITELL: This reminds me of the double  
23 jeopardy cases in which lower court judges used to say  
24 "What's the different? On appeal the Appellate Court could say  
25 it was double jeopardy and you would be back in status quo,"



but when the case got up on appeal, the Court of Appeal said, "No, you can't make a defendant sit through this thing twice, it is a torture."

The defendant is entitled to the threshold question being answered.

THE COURT: If I was completely confidence that I was right, I wouldn't do it. I am not confident I am right.

MR. FEITELL: I have great confidence in your judgment.

THE COURT: I do too.

MR. FEITELL: Are you going to write a decision on this?

THE COURT: I will write a decision either way.

MR. FEITELL: May I flag this for the record?

All of the reasons for delay -- there are two issues that may trouble the Court of Appeals.

First, this magistrate made a mistake which propelled the defendant into his problem. Had he had his assigned counsel and on the face of that application he should have it, we wouldn't be here today. This issue wouldn't be in the case.

The second issue, the Court of Appeals might be interested in, why when the defendant was put into this problem, this predicament of not being able to come up with

counsel, what did he do in a factual way to resolve the overt period of time before he came to see me? We have only gotten the peak of that. He went to see other lawyers. That may not be laches on his part. He may be responding to an imposition or an impediment thrown in front of him by a well meant, but nonetheless erroneous ruling made by the magistrate.

THE COURT: I can't see how this will trouble anybody because in my view of what ought to be his right, the case will be reversed. If my view of what ought to be is wrong, it doesn't make any difference whether he is guilty of laches or not, unless you are entitled to a wrong decision.

MR. FEITELL: You are not denying the motion on laches. All you are doing is referring it to review by the Court of Appeals.

THE COURT: I will deny it on laches if the government tells me they want to appeal.

MR. FEITELL: Laches as you have defined.

THE COURT: Yes.

MR. FEITELL: It certainly leaves me in the hands of the government, not a comfortable place.

THE COURT: I can't find you have brought it within any decided case.

MR. FEITELL: There was something else that came



1  
2 out during the course of the testimony. That is, whether  
3 this was a knowledgeable waiver. Here is a defendant who  
4 says he doesn't remember what was said to him, he was weeping,  
5 upset, distraught.

6 THE COURT: There was no weeping on Monday.

7 MR. FEITELL: I will teach each statement  
8 separately.

9 I am trying to suppress the statements made before  
10 the DEA on Friday too for the lack of a warning or a  
11 warning that was knowledgeably waived. That comes out in the  
12 testimony.

13 Since it is before your Honor, you could rule on  
14 that. If we could keep that out, it would narrow this down.

15 There are three features; the statement he made  
16 to the DEA Headquarters on Friday, the subsequent statement  
17 to Mr. Fortuin, which was in Mr. Fortuin's writing, signed by  
18 the defendant, and a tape recorded statement taken on the  
19 following Monday.

20 THE COURT: I will exclude the DEA on Friday on  
21 the DEA's testimony of his emotional condition. I exclude  
22 that on the government's testimony, the Friday statement.  
23 That has nothing to do with this. That gets excluded in any  
24 event. It would be excluded under my new rule if that were  
25 adopted but I would exclude that in any event on the

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2 government's testimony of his emotional condition that it was  
3 not knowledgeable. That does not exclude Mr. Fortuin's  
4 statement and it does not exclude the Monday statement. The  
5 Monday statement would be excluded on what I believe ought to  
6 be the law, but I can't find the case for it unless the  
7 government tells me they want to review it on appeal.

8 MR. COSTELLO: Your Honor, I am troubled by a  
9 number of things here.

10 First of all, in my listening to your findings of  
11 fact, I noted that at least as far as I heard you did not  
12 make a finding whether or not Mr. Satterfield had been  
13 informed that he was indicted and if you find that he had been  
14 informed, at what time was he informed?

15 I think that is crucial under some of these cases.

16 THE COURT: It is not crucial except to  
17 anything I have excluded. He was undoubtedly informed by Mr.  
18 Fortuin and everything else that important happened after that.

19 MR. COSTELLO: I am also troubled by your most  
20 recent ruling after your discussion with Mr. Feitell that  
21 excludes the statement made to DEA.

22 The reason I am troubled, your Honor, I think it  
23 is obvious, it will become obvious to any Appellate Court that  
24 the statement made to DEA on April 16th is precisely the same  
25 statement that is made to Mr. Fortuin on April 16th and is



precisely the same statement that is made again to --

THE COURT: It doesn't make any difference whether it is the same statement or not. On Mr. Coleman's testimony of his emotional state, he was crying and apparently not understanding of what the deuce was going on.

MR. FEITELL: Isn't that a ground under Illinois, where a defendant gives a statement under circumstances where the statement is not admissible and there is no appreciable break in time or circumstances, then he receives proper, intelligible warnings and makes the same set of incriminating statements, that there is a taint of the second set of statements notwithstanding the fact that he did receive warnings preparatory to making his second statement?

United States Supreme Court ruling, I think Brown v. Illinois. Now that your Honor has found factually that the first statement is constitutionally defective because it wasn't an intelligent waiver, as I brought out from the defendant when he went to see Mr. Fortuin shortly thereafter, the cat was out of the bag.

It wasn't really a fresh interview. In fact, it was probably more vigorous. Now he was there confronting the man who indicted him, the man who had the case, the man who would determine whether he could walk out or not. Still no counsel.

So even the statement before Mr. Fortuin may be constitutionally defective.

THE COURT: That certainly wouldn't affect the tape recorded statement on Monday.

MR. FEITELL: That is arguable. It is a tougher argument to make.

THE COURT: Talking to his brother at least.

MR. FEITELL: Your Honor could make a finding to that effect that there was an appreciable gap so that the first statement survives, but certainly the first two were so close together that if one falls, the other should go down with it.

For the sake of the record, I would also object to the third. I will say the taint carried over the weekend.

THE COURT: I will reserve decision on that point. If the government decides to accept my invitation to appeal, it becomes irrelevant. If not, I will reserve decision.

MR. COSTELLO: You have still not made a finding of fact when, if at any time, Mr. Satterfield was informed there was an indictment.

THE COURT: He was informed at least by Mr. Fortuin and I don't see that it is relevant whether he was informed before or not.



MR. FEITELL: One other feature of the testimony.

The defendant picked up something your Honor said about his discussing the testimony with his brother. That wasn't his testimony.

THE COURT: I know it wasn't his testimony. He was with his brother and I can't believe he got his brother and told him he needed a bond and didn't tell him what it was for. He did not testify he discussed it with his brother, but he did not deny it and if he had, I would not have believed him.

MR. FEITELL: The brother's role was only to put up some property to bail him out.

THE COURT: If he told me he went to his brother and asked him to bail him out and didn't tell him what it was all about, I would not believe him.

MR. FEITELL: Speaking to his brother to me in my mind from a legal point of view is meaningless. What difference does it make whether he spoke to him or not. In this world, if you have it, it greases the skids. If you don't have money in our society, you can't get too far. Even for a day and that is what happened here.

THE COURT: The gap between Friday and Monday is a gap and I find is a fact if he wants to take the stand I will let him in advance, I wouldn't believe him though he

2 might convince me, that he talked to his brother about the  
3 case I so find and further I must say that I believe the  
4 agents' testimony as to the context of the way they spoke to  
5 him on that.

6 MR. FEITELL: There is another feature to be  
7 emphasized here.

8 A judge could, if the testimony was somewhat  
9 different, conclude that the defendant was nursing some kind  
10 of a hope after Monday when he didn't come back that following  
11 Thursday, one might say they figured he made a deal but the  
12 fact is there is uncontradicted testimony in this case that  
13 he called an agent of the government and told them that he  
14 had spoken to a captain or police inspector and that he had  
15 made a mistake, that he shouldn't have spoken to the govern-  
16 ment and he had to get a lawyer.

17 So, all of that laches, the laches of the defen-  
18 dant, can in no way be equated with a faint hope that he had  
19 that he had made a deal with the government. He told the  
20 agents right then and there, "I don't have a lawyer and I am  
21 going to get one," or "I am going to try and get one," but  
22 he didn't have money then and he wasn't able to do it and that  
23 is what went on for a period of time and it became worse --  
24 actually, you know what should have happened, Legal Aid should  
25 have been in that courtroom and they should have been at his



side. He was entitled to counsel when he was brought before the magistrate.

THE COURT: I should have told Legal Aid to go to the DEA -- I understand they were already in the case.

MR. FEITELL: Somebody should have been down there before the magistrate and spoken up for him. He had \$250 in the bank, his rent was 275 and he had no assets and all he does is hit tennis balls.

I am just making a record.

MR. COSTELLO: Your Honor, I don't have anything further to say on this at this point. As I understand it, you would like our office to give you our opinion as to the viability of your theory in the Court of Appeals. We will attempt to do that by Friday.

THE COURT: I want your decision of whether you want to assert prejudice by your failure -- by your inability to appeal. If you assert prejudice by your inability to appeal, that means you think you have an appealable case because the trial of this case is scheduled for Monday.

I gave you the right with respect to the laches ruling.

MR. COSTELLO: What about the other defendants?

THE COURT: I don't see how it will spill over. I understand his confession does not involve any of the other

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2 defendants.

3 MR. MAZZA: Yes, it does. That is why I made the  
4 motion to sever. Both of the co-defendants' confessions,  
5 Byrd and Batterfield, inculcate Weston.

6 THE COURT: Anyway, I cannot speculate what the  
7 Court of Appeals will do, but I don't see that you have any  
8 standing to assert his rights.

9 MR. MAZZA: On the motion to sever I have  
10 standing.

11 THE COURT: That is different.

12 In other words, if you think I am wrong, then you  
13 think this case should go ahead and the Court of Appeals will  
14 support you.

15 If you have doubt on that after considering it,  
16 then we will proceed without the evidence. This is what I  
17 would have done had I gotten it early enough, so you would  
18 have a chance to review me on appeal.

19 It seems to me to be a raional resolution of this  
20 conflicting area.

21 What is the next motion?

22 MR. MAZZA: Can we have a recess for lunch? It  
23 is twenty-five to 2.

24 (Luncheon recess.)  
25



AFTERNOON SESSION2:30 p.m.

THE COURT: Before we start on the new one, since Mr. Feitell is here, I want to make clear what I was doing with respect to Mr. Feitell's motion.

In the first place, I indicated the ruling I would have made had there been plenty of time for the government to appeal in advance of trial. I indicated that that is what I thought the rule should be in this situation, namely, where a defendant has been indicted.

No statements should be taken from him unless the government makes clear to him the advisability of a lawyer. To put it the other way, the inadvisability of receiving without a lawyer in much the same way that a judge would make it clear to a defendant who desires to proceed without a lawyer at a trial or at any other stage of the proceeding.

However, I can find no case to support that and I am not all together confident that the Court of Appeals would adopt such rule if it was put to them.

Therefore, the government has a practical choice. They can either accept my ruling, in which event the statements will be suppressed and the trial will proceed either to a conviction or an acquittal.

If it is an acquittal, obviously it is the end of

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2 the case and if it is a conviction, it is the end of this  
3 phase of the case, or the government can assert prejudice in  
4 their inability to review my ruling prior to appeal, review  
5 of my ruling on appeal prior to trial, in which event I will  
6 deny the motion on the ground it was not made within the  
7 permissible ten days either of arraignment or of the  
8 appointment of counsel and in jail, that the government  
9 was prejudiced by its inability to appeal.

10 In that event, at least as to the tape recorded  
11 statement made to the agents on Monday at the DEA office, I  
12 will deny the motion to suppress and those statements will be  
13 heard by the jury and the defendants will appeal.

14 As to the statements made to Mr. Portno and on  
15 Friday, I reserve decision. I am changing that a little bit.  
16 I just want to reconsider -- I was kind of shooting from the  
17 hip in discussion of it, but in the event the government does  
18 not claim it prejudices, they are all excluded.

19 I mean, in the event the government does not claim  
20 prejudice, they are all excluded -- in the event the  
21 government does not claim prejudice, then the Monday statement  
22 will be excluded and I will reconsider the other two.

23 I have heard the arguments on the other two and  
24 I will -- if the government does not claim prejudice, my  
25 motion will be granted and all three are excluded.



2 If the government does claim prejudice and it  
3 claims it wants an opportunity to review my ruling on appeal,  
4 then I will admit in any event the tape recorded statement on  
5 Monday.

6 MR. FEITELL: The statement of Mr. Fortuin?

7 THE COURT: The tape recorded statement on Monday.

8 I will admit that in any event over your objection  
9 and exception if the government does claim prejudice and I  
10 will reconsider whether to admit the first two.

11 MR. FEITELL: Do I understand your Honor is  
12 temporarily recrenched from an earlier ruling today with  
13 respect to the interview at the DEA which we claim was taken  
14 from him in circumstances of great emotion where he didn't  
15 make a knowledgeable, intelligent waiver.

16 THE COURT: I temporarily retrenched on that.  
17 It was just the give and take of argument and I am not sure  
18 I am right on that.

19 I wouldn't have to consider it if the government  
20 doesn't but I will let you know shortly after the government  
21 tells me what they are going to do about the Friday situation

22 MR. FEITELL: You have heard my arguments, but one  
23 other thing occurs to me:

24 You say that the government has a right to tell  
25 you that they are not happy with your decision or proposed

1 rklr

A 131 111

2 decision and therefore wish to take appeal, that since they  
3 do not have time to take an appeal, you wish to proceed any-  
4 way.

5 Therefore, the government has been prejudiced.

6 THE COURT: It is very simple.

7 The ten-day rule has been violated. In order to  
8 proceed with this motion, I have to relieve you of the ten-  
9 day rule.

10 MR. FEITELL: As of when?

11 THE COURT: Either way.

12 MR. FEITELL: When the defendant was first  
13 arraigned here --

14 THE COURT: It wasn't made within ten days of  
15 the arraignment or made ten days within your appointment.  
16 On any theory, the ten-day rule is violated.

17 MR. FEITELL: Even though the facts did not be-  
18 come available to me until after the ten days elapsed?

19 THE COURT: That is an argument you can make, but  
20 I state they should have become apparent to you and I reject  
21 that argument.

22 However, there is no prejudice to the government  
23 by the laches of ten days, except, they have lost their right  
24 to appeal. That prejudice I will recognize if they assert  
25 they want to do it and they run the risk.



1  
2 MR. FEITELL: I have to add to the record what  
3 your Honor has done in effect is to say that legally  
4 cognizable prejudice against the government may be asserted  
5 by them by reason of your failure or refusal to grant an  
6 adjournment in the case.

7 THE COURT: I don't care how you put it.

8 MR. FEITELL: I didn't know that that is preju-  
9 dicial. That is not the prejudice as I understand it.

10 THE COURT: All right, so it is not as you under-  
11 stand it. That is my ruling.

12 MR. FEITELL: The prejudice flows from the  
13 Court's attitude --

14 THE COURT: You did not make this motion until  
15 the eve of the trial date.

16 MR. FEITELL: I just came into the case. You  
17 seem to be upset with me.

18 THE COURT: I am not upset with you.

19 MR. FEITELL: I can't help it if the defendant  
20 didn't find a lawyer for two months. This man is so confused  
21 with the events of that day --

22 THE COURT: We have been through this. He had a  
23 two-hour conference with an inspector of police.

24 MR. FEITELL: How could I put together a motion  
25 without finding additional information from the government

1 rklt

2 which I got. As soon as I found it out, I made a motion.  
3 That puts a burden that is on defense counsel that is impos-  
4 sible to sustain. No matter how hard you work, you cannot  
5 get to first base.

6 We are being blamed for something that is not  
7 our fault.

8 THE COURT: Nobody is blaming you for anything.  
9 I am just telling you what the ten-day rule is. It has  
10 passed and I am not blaming you for your client sitting  
11 around doing nothing.

12 MR. FEITELL: It is not a rule, it is a rule of  
13 thumb. It is not a hard-bound rule.

14 THE COURT: All right, you have had your say.  
15 Does the government understand my position?

16 MR. COSTELLO: I do.

17 THE COURT: Let's go on with the next.

18 As I told you, the end result has got to be  
19 correct. Either it never gets to the Court of Appeals in  
20 which event this whole flurry is immaterial, or, if it does  
21 get to the Court of Appeals, the Court of Appeals agrees with  
22 me or it does not. If it agrees with me, it is out. If it  
23 does not, then I should not have made this ruling at all.

24 MR. MAZZA: Your Honor, I understand that the  
25 government is getting daily copy. Defendant at this point



1 cannot afford to pay for these minutes. He has paid me  
2 a nominal fee but has no more money to pay any additional  
3 fees so I would like to make an application under the Criminal  
4 Justice Act for the defendant to have the minutes free of  
5 charge.  
6

7 THE COURT: Is the government having daily copy?

8 MR. COSTELLO: Your Honor, I asked for the  
9 transcript of today's proceedings.

10 THE COURT: You are not involved so I deny the  
11 motion.

12 MR. MAZZA: I am involved with the minutes right  
13 now.

14 THE COURT: You don't intend to have it for this  
15 afternoon's motion?

16 MR. COSTELLO: Not right now.

17 I am not making any representation what my  
18 intentions are with respect to the trial.

19 THE COURT: If you order them, you can make a  
20 motion at the time.

21 MR. FEITELL: The defendant Satterfield asked me  
22 if he could leave since this part of the hearing does not  
23 relate to him and I am here, I feel I am well able to take care  
24 of Mr. Satterfield's interest, but I would like to point out  
25 for the record that he is not here and the reason he left the

1 rklt

A 135 115

2 the courtroom is that he has some tennis lessons to give  
3 and that is the only way he can sustain himself.

4 THE COURT: There is no obligation for his being  
5 here.

6 MR. FEITELL: I would like to run that into an  
7 application for the Court to consider what happened here  
8 today. He has no money for the minutes, Judge, on an impor-  
9 tant matter like this -- maybe I could reserve decision on  
10 it and let's see how the case goes. We would have to have  
11 these minutes. He is still in a state where he has no funds.

12 THE COURT: We can deal with that.

13 You don't need them now?

14 MR. FEITELL: No.

15 THE COURT: We will deal with that.

16 - - -



# FINANCIAL AFFIDAVIT

IN UNITED STATES  
IN THE CASE OF

☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL

FOR

VS.

AT

PERSON REPRESENTED (Show your full name)

**Reginald Lee Satterfield**

CHARGE/OFFENSE (describe if applicable & check box - )

**21 USC 846**

☒ Felony  
☐ Misdemeanor

- 1 ☐ Defendant
- 2 ☐ Defendant
- 3 ☐ Appellant
- 4 ☐ Probation
- 5 ☐ Parole Vx
- 6 ☐ Habeas P
- 7 ☐ 2255 Petition
- 8 ☐ Material
- 9 ☐ Other (Sp)

USA 35a-47  
(ED. 4-88-71)

**GOV'T'S  
EXHIBIT  
U. S. DIST. COURT  
S. D. OF N. Y.**

**1st  
7-30-76**

FPI-61-8-20-78-204-0018

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Am Self Employed	
		Name and address of employer: <b>Bill's Tennis (2116 5th Ave. NYC)</b>	
		IF YES, how much do you earn per month? \$ <b>800</b>	IF NO, give month and year of last employment: _____ How much did you earn per month \$ _____
		If married is your Spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, how much does your Spouse earn per month \$ _____ If a minor under age 21, what is your Parents or Guardian's approximate monthly income \$ _____	
OTHER INCOME	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES	<b>RECEIVED \$500 TENNIS COURT (Gina Rochelle Nash Sch)</b>	
CASH	Have you any cash on hand or money in savings or checking account? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF YES, state total amount <b>\$250</b>		
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, GIVE VALUE AND DESCRIBE IT		
OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS <input type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input checked="" type="checkbox"/> SEPARATED OR DIVORCED	Total No. of Dependents <b>1</b> List persons you actually support and your relationship to them <b>TRACY SATTERFIELD (Daughter)</b>
	DEBTS & MONTHLY BILLS	APARTMENT OR HOME: <b>APT.</b> chemical Bank Child Support	Creditors Total Debt Monthly Payt.
			\$ <b>275</b> \$ <b>1,000</b> \$ <b>47.00</b> \$ <b>100.00</b>

I certify the above to be correct.

SIGNATURE OF DEFENDANT  
(OR PERSON REPRESENTED)

**Reginald Satterfield**

FPI-61-8-13-79-404-0010

**WARNING: A FALSE OR FIDELITY AFFIDAVIT IS A CRIME**

Reginald Satterfield  
e

Form No. USA 33s-306 p. 1  
Rev. 1975

STATEMENT OF DEFENDANT BEFORE ARRAIGNMENT  
MADE TO ASSISTANT UNITED STATES ATTORNEY

Date: 4-16-76

Time Interview Conducted: 1:00 a.m. 1:00 p.m.

Q My name is Reginald Satterfield, I am an Assistant United States Attorney. You have been arrested for a violation of Title 21 U.S.C. Sections 812, 841, 846 which relates to sale + conspiracy to sell heroin. In a few minutes you will be taken before the United States Magistrate who will fix bail in your case. Do you understand that?

A

Yes

Q You have a constitutional right to refuse to answer any of my questions. Do you understand that?

A

Yes

Q You have an absolute right to remain silent, and if you choose to answer any questions, any statement you do make can be used against you in a court of law. Do you understand that?

A

Yes

Q You have a right to consult an attorney and to that attorney present during this interview. I understand that?

A

Yes

USA 33s-475 (ED 4-20-71)
Gov't. EXHIBIT U. S. DIST. COURT S. D. OF N. Y.
<u>2 set</u> 7-30-76

FPI M-9-26-76 ZSM-5519

Q If you do not have funds to retain an attorney an attorney will be appointed to represent you and you do not have to answer any questions before this attorney is appointed and you can consult with him. Do you understand that?

A.

Yes

Q Would you like to answer some questions about your background? You may pick and choose those questions you wish to answer, and you may stop at any time.

Yes.



NAME: REGINALD  
SATTERFIELD

DOB: 11-12-40 MARITAL STATUS: Separated

SOCIAL SECURITY NUMBER: 227 505 510

SPOUSE:

DOB:

CHILDREN:

Daughter: 10

ADDRESS:

788 Columbus Ave.  
NYC

HOME TELEPHONE:  
212 864-3876

PREVIOUS ADDRESS:

790 Concourse Village West  
Bronx, N.Y.

EMPLOYED:

1. Tennis Pro.  
Bills Indoor Tennis  
2. Tennis Coach  
New Rochelle H.S.  
PREVIOUS EMPLOYMENT:

APT. 17K RENT: \$275.00  
BEGAN LIVING THERE: Since 2/76

DATES:

2 yrs.

HOW LONG:

Since March 1, 1976.

BUS. PHONE:

WAGES: \$250 -

WAGES:

PARENTS:

Father, Norfolk Va.

ADDRESS:

Mother, deceased.

WHO RESIDES WITH YOU?

Alone

WELFARE?

No

FOOD STAMPS?

No

UNEMPLOYMENT?

No

SELF:

AMOUNT:

SPOUSE

PROGRAM:

LOCATION:

ARRESTS:

-1-

-2-

-3-

-4-

PLACE

CHARGE

DISPOSITION

SENTENCE

TIME SERVED

PROBATION

EDUCATION:

YEARS:

WHERE:

Family Court -  
Non-support

## CURRENT MEDICAL PROBLEMS:

PHYSICAL:

MENTAL:

HAVE YOU TAKEN OR ARE YOU NOW TAKING DRUGS?

ADDICT?

EVER ADDICTED?

WHAT DRUG?

DRUG PROGRAM?

ALCOHOL?

HEROIN (NO) COCAINE (NO)

MARIJUANA OR HASHISH ( ):

AMPHETAMINES (NO),

METHADONE (NO),

LSD ( ), OTHER:

DO YOU (OR YOUR SPOUSE) HAVE ANY BANK ACCOUNT?

WHERE:

FINANCIAL:

CASH ON PERSON

SAVINGS

STOCKS OR BONDS

CAR

HOUSE

OTHER PROPERTY

YES  
1020 + B'way \$200  
Checking \$23.35  
135th + Lenox \$50

DOES YOUR SPOUSE WORK?

WHERE?

CITIZEN OF:

ENTRY TO U.S. DATE:

PLACE OF BIRTH:

PORT OF ENTRY:

ALIEN REGISTRATION NUMBER:

REGISTERED WITH SELECTIVE SERVICE?

HAVE YOU EVER SERVED IN THE ARMED FORCES?

WHEN?

TYPE OF DISCHARGE?

DO YOU HAVE ANY RELATIVES IN N. Y. AREA, OTHER THAN THOSE MENTIONED ABOVE?

NAME:

ADDRESS:

Jacquelyn Smith Sister

New Rochelle.

Joseph Satterfield Brother

NYC Transit Authority  
Dispatcher



WHEN WERE YOU ARRESTED?

10:00 Today

WHERE?

first at  
366 Fifth Ave.  
~~369th S~~ 369th

DO YOU HAVE ANY COMPLAINTS ABOUT THE WAY THE AGENTS TREATED YOU?

NO.

Army

WOULD YOU LIKE TO TELL ME WHAT HAPPENED?

Q. Where is the 369th Army?

A. 1420 + Fifth

Q. Is that open every day of the week?

A. Only November through April. Closed  
mornings.

Q. You have been going there regularly,  
since when?

A. Six years or more.

Q. You ever been the Club La Martinique?

A. Yes.

Q. Where is it?

A. ~~First S~~ 57th St. nr. 6th Ave.

Q. When?

A. Most recently February. Also in  
October / November 1975. Other occasions.

Q. Do you know a person named  
Ronald Weston?

## DEFENDANT'S STATEMENT - Continued.

A. Yes. Since Summer 1974.

Q. Ever ~~any~~ have any business with him?

A. I had discussions. There was one deal that was actually made.

Q. Tell me what happened?

A. He asked me to pick up a package, which I am sure was drugs, and bring it to him. I went to Audsban garage, picked up a package from a Puerto Rican kid named Hippo or Hippy. I brought it home and Weston picked it up.

TIME INTERVIEW TERMINATED

1:20

a.m. p.m.

WITNESSED: ASSISTANT U. S. ATTORNEY

AGENTS:

BAIL RECOMMENDED:

\$5,000 P.R.B. Co-signed by

BAIL SET BY MAGISTRATE:

Joseph Safford\* As asked

B be supervised by probation.

HEARING:

POSSIBLE BAIL SUGGESTED BY DEFENDANT:

TIME OF ARRAIGNMENT:

Interviewed by pre-trial services.

a.m. 3:00 p.m.

A to retain counsel.

LAWYER

BAIL WARNINGS GIVEN?

TELEPHONE

APPOINTED OR RETAINED (CIRCLE ONE)

\*To sign by 1:00 4/19/76



Q. How much did you get for that?

A. \$50.00. I was told I was picking up cut. It very well could have been heroin.

Q. There was a second deal?

A. There was a discussion that was going to turn into a deal. I was going to pick up a package and put it in a car to be driven by the person who was picking up the package. Then Ronald Weston told me the deal was off because it was too risky. The buyer could come up with the money too easily; he was too eager. \$10,000 or more was involved. ~~He~~ Weston didn't discuss the amount of money or quality of the drugs.

Q. What you've told me you told the agents also?

A. Yes.

Q. Prior to speaking to the agents did they advise you of your rights the way I did?

A. Yes.

Q. They didn't threaten you or promise you anything, did they?

A. ~~No~~ No.

Statement read to Mr. Satterfield.  
Certain changes made and a few additions.

I'm going to ask you to look at this entire statement. If it is true and freely given, sign it.

Reginald Satterfield  
Thomas M. Fortuin, Ad. U.S. Attorney



STATEMENT OF REGINALD SATTERFIELD  
TO SPECIAL AGENT DWIGHT RABB

Rabb Today's date is April the 19th, 1976. This is Special Agent Rabb of the Drug Enforcement Administration. I'm about to read the Miranda warnings to one Reginald Satterfield. (cough) Before we ask you any questions, it is my duty to advise you of your rights. Do you understand that you have a right to remain silent?

Satterfield Yes.

Rabb Do you want to answer so I can?

Satterfield Yes.

Rabb Okay. Do you understand that anything you say can and will be used against you in a court or other proceedings?

Satterfield Yes.

Rabb Do you understand that you have the right to talk to a lawyer before we ask you any questions and to have him present during the questioning?

Satterfield Yes.

Rabb If you cannot afford or otherwise obtain a lawyer and you want one, a lawyer will be appointed to you by the United States Magistrate or the Court, and we will not ask you any questions until he has been appointed.

Satterfield Yes.

Rabb If you decide to answer now, with or without a lawyer, you still have the right to stop the questioning at any time, or to stop the questioning for the purpose of consulting a lawyer.

Satterfield Yes.

Rabb Okay. However, you may waive the right to advice of counsel and your right to remain silent and you may answer questions or make a statement without consulting a lawyer if you so desire.

Satterfield Yes.

Rabb Okay. Do you understand all the rights I've read to you?

Satterfield Yes.

Rabb Do you elect to waive those rights and make a statement?

Satterfield Yes.

Rabb Okay.

[Background Noises.]

STATEMENT OF REGINALD SATTERFIELD. . . (cont'd.) - 2 -

Rabb Identify yourself and then go ahead.

Satterfield: Reggy Satterfield. Um. . . I met Ron the summer of '74 in the park. You know. . . he came to me and talked about some lessons and asked me for some lessons; so I gave him lessons, and. . . it developed into a friendship 'cause he was takin' lessons like almost every day. He was a really good tennis player and he was involved in it. So, gradually by the end, we went out together. . . you know. . . we went out to . . . you know. . . went to some shows and just hung out together. . . you know. And one day he asked me to a . . . do him a favor. He said he wanted me to pick up a package and he said it was cut. Now Dwight, you have to believe me. . . I had no . . . I never dealt in heroin. . . So I don't really know. I know what cut is. . . cut is. . . you use to cut drugs, right. So, I said to him. . . what do you want me. . . to do and he said go pick it up take it to your house and I'll pick it up from you. . . so I was supposed to go to this garage and just ask one of the kids to give me a package. . . for Ron, right. . . which they did. Now, it was all white.

Rabb What garage?

Satterfield Audabon Avenue

Rabb Okay, is that identified as Audabon Garage?

Satterfield Yes, that's right. So I picked up this package from the kid. . . Puerto Rican kid. I don't know where he went to . . . because when I was in the office, he went in the back. . . he could have went and got it out of somebody's car or somethin'. . . I don't know.

Rabb Well, who'd you ask for when you went?

Satterfield One of the kids.

Rabb A. . . Did you ask for him by name?

Satterfield Yes I say. . . Hippie.

Rabb Alright. . . his name is Hippie?

Satterfield Yeah. That's what they call him. . . yeah, yeah. . . Hippie.

Rabb He was a PUerto Rican kid?

Satterfield Yes.

Rabb Young?

Satterfield Yes.

Rabb Okay.

Satterfield You know, under eighteen.

Rabb Under eighteen?

Satterfield Yeah. He works around there.

Rabb Okay.

Satterfield So a . . . he got . . . he gave me the package and put it in a brown bag. I looked in it and it was white. . .



STATEMENT OF REGINALD SATTERFIELD. . . (cont'd.) - 3 -

Rabb Uh huh.

Satterfield. . . So I take it home. . . (background noise)  
 . . . ten minutes later Ron comes by and picks it  
 up and that's it.  
 That was that involvement. The next time was when  
 he wanted me to meet somebody and pick up a package  
 from the same place, put it in a car in the armory  
 and the persons you know, would come pick it up at  
 the armory. So, that day a . . . we was gonna set  
 this up. . . a . . . I . . . rode with him to this  
 bar, and you eventually came in. Right.

Rabb That's the. . . Zanzibar you're referring to?

Satterfield Right, right, Zanzibar. You eventually came in.  
 We met each other.

Rabb Right.

Satterfield And you two got up and went to the bathroom.

Rabb Right.

Satterfield Right. Now when you came out of the bathroom, you  
 left and we left and he says a . . . forget about  
 that, I think it's a little shakey. . . he said  
 the guy can come up with the money too fast. Now,  
 he didn't discuss how much. . .

Rabb Oh. . . he said now, wait a minute; let me back up.  
 Oh. . . the reason he wanted to forget about it was  
 I could come up with the money too fast?

Satterfield Yes. . . Yes.

Rabb Okay.

Satterfield Okay. So, he said forget about that. He said. . .  
 (inaudible). . . I already got told they got  
 hold of the money too fast. Now, he didn't dis-  
 cuss. . . any time did he discuss any amount, what  
 quantity, because he knew I wasn't in drugs so it didn't  
 really matter what he was pickin' up, I guess an  
 ounce, a kilo or whatever it was, right? So, he said  
 forget about that deal. . . the guy talked too fast.  
 So, this is the last time that we had a little talk  
 in terms of doin' a favor like that.

Rabb Aha.

Satterfield Right. And I guess I was supposed to get about  
 fifty hundred fifty dollars or somethin' like that  
 for doin' this.

Rabb Okay. Was that the full extent of your involvement  
 in narcotics with Ron?

Satterfield Narcotics, yes.

Rabb All right, but you were aware that that's what he  
 was into?

Satterfield I assumed it, yes.

Rabb You made the assumption?

STATEMENT OF REGINALD SATTERFIELD. . . (cont'd.) - 4 -

Satterfield Yeah. Sure, sure. I mean because, I mean because. . . he drives a couple of cars. . . I mean. . . and he had a lot of money and he dresses clothes. I mean you don't have to ask a guy anything like that. . . (inaudible). . .

Rabb Yeah.

Satterfield You can assume it.

Rabb Okay. Then, you weren't getting the a . . . possession that we had when a . . . at the Zanzibar. You weren't getting the drugs for him . . . you were just a . . . picking them up for him.

Rabb From him?

Satterfield For him.

Rabb For him and put it in his car.

Satterfield Put it in his car. I guess I was being used as his middle man. He didn't wanna be seen. I would get the drugs and put them in the car which would be parked at the armory. So, I guess that's why I met you so you'd know so, I would know whose car to put it in, I guess.

Rabb Do you recall meeting me on an earlier occasion?

Satterfield A . . . they brought that up, but I don't remember it. . . the police say you. . . you met my girlfriend at La Martinique. Now, I can't . . . can't remember . . . specifically meeting you, but you probably were there 'cause I met. . . you met Judy who was with me at the time.

Rabb Yeah, well, I have photos and what have you. . . and photos of you and several other people, you know?

Satterfield Um hum.

Rabb But at that point in time . . . I . . . a. . . I can cut this off.



gws

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
:  
UNITED STATES OF AMERICA, :  
:  
-against- : 76 Cr. 376  
:  
REGINALD SATTERFIELD, :  
RONALD WESTON and :  
JAMES ARNOLD BYRD, :  
:  
Defendants. :  
:  
-----X

Before:

HON. WHITMAN KNAPP,  
District Judge.

New York, July 1, 1976;  
5.00 o'clock p.m.

APPEARANCES:

ROBERT B. FISKE, JR., Esq.,  
United States Attorney for the  
Southern District of New York;  
BY: ROBERT COSTELLO, Esq.,  
Assistant United States Attorney.

LAWRENCE FEITELL, Esq.,  
Attorney for Defendant  
Reginald Satterfield.

THOMAS MAZZA, Esq.,  
Attorney for Defendant  
Ronald Weston.

---

WS

1  
2 THE COURT: As you gentlemen are aware,  
3 yesterday I delivered an opinion orally with respect  
4 to the defendant Satterfield indicating that I thought  
5 certain statements should be suppressed but for the  
6 operation of the 10-day rule.

7 I further said that if the Government wanted to  
8 challenge my views on appeal, I would deny the motion  
9 for violation of the 10-day rule and we would proceed  
10 with the trial and that the question could be raised on  
11 appeal by the defendant.

12 Since then I have had second thoughts on the  
13 wisdom of that way of handling the matter. I began to  
14 wonder maybe in the rush of part one, I'm making more  
15 trouble than I'm saving. I was under the impression  
16 at the time that we had a pressing speedy trial problem  
17 with respect to two of the other defendants, but I  
18 find that isn't so, that the speedy trial problem with  
19 respect to the other defendants would be met if we start  
20 the trial before December.

21 In view of that I would like the Government's  
22 view in the first place of perhaps the advisability --  
23 not the advisability of my decision, but assuming that  
24 I adhere to the views expressed, the advisability of  
25 ignoring the 10-day rule violation and proceeding with



1  
2 a decision on the merits and adjourning the trial to a  
3 date to be fixed, say, in November, thereby permitting  
4 the Government to take an expedited appeal and dispose of  
5 the whole matter with fewer complications.

6 MR. COSTELLO: Your Honor, I think that's a  
7 very reasonable approach to the problem.

8 I was myself troubled by the 10-day rule  
9 provision of your finding. I think that if you honestly  
10 feel that by virtue of the fact that the defendant was  
11 under indictment, that if your feelings are that the  
12 statements should be suppressed, I think this presents  
13 perhaps an ideal opportunity to find out what the  
14 Second Circuit would do under these circumstances.

15 It appears to me that this case is unlike any  
16 of the reported decisions in that the issue here is very  
17 clear as to whether or not you need more than Miranda  
18 warnings plus a warning that you have been indicted.

19 I would say, though, that with respect to the  
20 third statement, it appears to me that we have perhaps  
21 a stronger case than on the first two statements.

22 With that in mind I would even suggest to the  
23 Court right now that it is our intention to only use  
24 the statement made on April the 19th at the Drug  
25 Enforcement Administration headquarters, the tape

1 ws

2 recorded statement.

3 THE COURT: I think that statement raises the  
4 issue more clearly than the other two. That statement  
5 raises the issue very clearly, The first statement  
6 is mudied by the issue presented in another case. The  
7 first statement is mudied by his emotional reaction.

8 I was going to reconsider my ruling on that  
9 because I am not quite how it should come out. The tape  
10 recorded statement really raises the question with  
11 complete clarity.

12 MR. COSTELLO: So, in other words, your Honor,  
13 the Government has no intention at this point, even if  
14 we went to trial on Tuesday, of using any statement of  
15 Mr. Satterfield's other than the statement made at Drug  
16 Enforcement Administration headquarters on April 19, three  
17 days after Mr. Satterfield's arrest.

18 THE COURT: In other words, you do not oppose  
19 but rather suggest taking the adjournment?

20 MR. COSTELLO: I do not oppose it, your Honor.

21 THE COURT: I know how you feel.

22 MR. FEITELL: I welcome it, your Honor.

23 THE COURT: What about you?

24 MR. MAZZA: I have no objection to the adjourn-  
25 ment, your Honor.



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2 THE COURT: There is no requirement for waiver  
3 of the speedy trial rule because that won't be  
4 necessary.

5 MR. COSTELLO: If I might, your Honor, just  
6 for the sake of the record, I believe Mr. Hartment called  
7 me the other day --

8 THE COURT: He also called chambers.

9 MR. COSTELLO: I understand he has been  
10 requesting an adjournment also. I assume, and perhaps  
11 I'm being too rash, that Mr. Hartman will not object to  
12 an adjournment since he requested it.

13 THE COURT: He requested it no later than  
14 today.

15 THE CLERK: He requested it several times, I  
16 believe twice in the last few days. I reached his office  
17 and notified him of this meeting this afternoon.

18 THE COURT: All right. I assume he's in  
19 accord. Even if he weren't, I think we could grant it  
20 over his objection. Every indication that I have is  
21 that he wants an adjournment very badly. That's the  
22 third defendant.

23 What date shall we pick then?

24 MR. COSTELLO: There is one further thing I would  
25 like to bring up, your Honor, and that's a possible

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situation that could arise with respect to Mr. Mazza's client, Mr. Weston.

As you know, your Honor, last Tuesday I believe Mr. Weston, who was at that time on bail on the indictment in this case, was arrested by the New York City Police Department. As a result of that arrest he was placed on \$10,000 cash or surety bail by Justice Rosenberg in Bronx Supreme Court.

MR. MAZZA: That's correct.

MR. COSTELLO: To this date Mr. Weston has been unable to make that bail. He at that point was committed to the New York City correctional facility at Rikers Island and was written into federal custody immediately thereafter.

Now, if we are talking about a date in November, I am not quite certain of how speedy the State Court runs, but there is a possibility that they may wish to have the custody of Mr. Weston some time between now and then for whatever particular reasons they might have.

The difficulty arises, your Honor, under the interstate agreement on detainers. Should the writ of habeas corpus ad prosequendum that Mr. Weston is currently here on be satisfied and Mr. Weston returned to State custody without the express approval of Mr.



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Weston and his attorney, there is provision for this indictment to be dismissed with prejudice if he's returned back to State custody. This, of course, can be waived.

I bring that up because I think at some time between now and whenever we set the trial date the situation might arise where the State of New York would want to see Mr. Weston in Bronx, Supreme Court.

THE COURT: Off the record.

(Discussion off the record.)

THE COURT: Let me put on the record what our understanding is.

Our understanding, and this is with you --

MR. MAZZA: Yes, sir.

THE COURT: Our understanding is that you prefer, your client prefers the Metropolitan Correction Center and, therefore, requests me not to satisfy the writ --

MR. MAZZA: That's correct.

THE COURT: -- but to hold him here.

MR. MAZZA: Yes, sir, your Honor.

THE COURT: I further understand that it may happen that he will be here more than 120 days and, if that should happen, you, nonetheless, adhere to that request and waive any time limits --

1 WS

2 MR. MAZZA: Yes, your Honor.

3 THE COURT: -- that may otherwise inure to  
4 your benefit under the interstate compact.

5 MR. MAZZA: Yes, sir.

6 THE COURT: Article 4, Section C says:

7 "In respect of any proceeding made possible by  
8 this article, trial shall be commenced within 120 days  
9 of the arrival of the prisoner in the receiving state,  
10 but for good cause shown in open court, the prisoner or  
11 his counsel being present, the Court having jurisdiction  
12 of the matter may grant any necessary or reasonable  
13 continuance."

14 MR. MAZZA: With the defendant's consent.

15 THE COURT: You are here.

16 MR. COSTELLO: Or counsel.

17 THE COURT: Or counsel. You are here and  
18 you, as I understand, concur in the views of the Government  
19 and Mr. Feitell, that it would be preferable for all  
20 parties concerned to have this issue involving Mr.  
21 Feitell's client disposed of before the trial.

22 MR. MAZZA: Yes. The statements are harmful  
23 to my client, obviously.

24 THE COURT: If the Court of Appeals should  
25 affirm my view, it would be helpful to your client.



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MR. MAZZA: Yes.

THE COURT: My procedure that I suggested yesterday was not in your interest, as you saw it.

MR. MAZZA: No, not at all.

THE COURT: So you concur in this plan?

MR. MAZZA: Yes. I think it would be more expeditious.

THE COURT: If that should require more than 120 days, you think that would be in your client's interest?

MR. MAZZA: Yes, your Honor.

THE COURT: I find it would be in the interests of justice also. I will extend that 120 days as much as necessary within the speedy trial rules.

MR. COSTELLO: The proceeding taking place in open court, I wonder if Mr. Mazza agrees to consider this in open court.

MR. MAZZA: Yes, I will consent.

MR. COSTELLO: Could we go off the record a second?

THE COURT: Yes.

(Discussion off the record.)

THE COURT: It's understood then that the procedure will be that the writ will not be satisfied,

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1  
2 that on July 29 and such other day as he may be required  
3 in the Bronx County, he will be delivered there by the  
4 Marshal and the writ will be adjourned here until such  
5 time as the case is concluded. I can't bind Mr. Mazza  
6 to not take advantage of any technicality that may arise,  
7 but it is the purpose to keep him here and any mistake  
8 that the Marshal or any judge in Part I may make in  
9 satisfying a writ will be -- deemed to be by me at least  
10 will be a clerical error.

11 MR. MAZZA: Yes. The whole thing might be  
12 academic because he might be out on bail.

13 THE COURT: Off the record.

14 (Discussion off the record.)

15 THE COURT: In the event that the defendant  
16 Weston should be able to make bail in the Bronx County  
17 Court action, Bronx Supreme Court action, appropriate  
18 arrangements will be made to have him delivered to the  
19 Bronx County so he can go through the formalities of being  
20 admitted to bail there. Nothing that happens in the  
21 course of those arrangements will be deemed to be in  
22 satisfaction of the writ within the provisions of the  
23 interstate agreement on detainers.

24 MR. MAZZA: Thank you, your Honor.

25 THE COURT: All right.  
The trial is set down for November 15 at 10.30 a.m.

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A 158

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA :

- against - :

REGINALD SATTERFIELD,  
RONALD WESTON and  
JAMES ARNOLD BYRD,

Defendants. :

MEMORANDUM AND ORDER

76 Cr. 376

#44726

-----x  
A P P E A R A N C E S :

ROBERT B. FISKE, JR., ESQ.  
United States Attorney for the  
Southern District of New York  
One St. Andrew's Plaza  
New York, New York 10007  
By: ROBERT COSTELLO, ESQ.,  
Assistant U. S. Attorney,

Of Counsel

LAWRENCE FEITELL, ESQ.  
Attorney for Defendant Satterfield  
150 East 58th Street  
New York, New York 10022

KNAPP, D.J.

Defendant Satterfield brings this motion to suppress certain statements made to the Drug Enforcement Administration and the United States Attorney. The chronology of events is as follows:

On April 14, 1976 a superseding indictment was returned charging Satterfield with complicity in a conspiracy to sell heroin (one of his co-defendants having been indicted some 3 months previously), and a warrant was issued for his arrest. Two days later, on Friday, April 16, the warrant was executed at approximately 10:00 A.M. in front of the Fifth Avenue Armory, where the agents had arranged to have Satterfield, a tennis instructor, appear on the pretext of making an appointment for a tennis lesson.

The agents, after advising him of his Miranda rights and telling him that he had been indicted, took Satterfield to DEA headquarters where he gave a statement substantially admitting his involvement in the criminal conspiracy. During much of this time he was crying and whimpering. Immediately after that statement, Satterfield was taken to the United States Attorney's Office where he was again advised of his rights, the indictment against him was explained in detail, and he gave a statement virtually identical to the first one. He was then arraigned before the Magistrate, and was released on a personal recognizance bond to be co-signed by his brother. The brother was given until the following Monday to affix his signature.



Although the agents had indicated to Satterfield that the Magistrate would provide an attorney and one of them had helped him fill out the necessary form, the Magistrate ruled that he was financially ineligible and declined to appoint an attorney.

As Satterfield was leaving the courthouse, one of the agents suggested that if he wished to continue his cooperation he should come to DEA Headquarters on the following Monday and make a further statement. He agreed to do so. Satterfield kept his Monday appointment at Headquarters and made a third statement repeating the first two - this time on tape.

We find the following determinative facts:

(1) Although the Miranda warnings were given on Friday, April 16 by the DEA agents, Satterfield was in no emotional state to be able to comprehend or intelligently waive his rights.

(2) Although the agents on April 16 advised Satterfield of his indictment he was then unable to comprehend its significance.

(3) By the time Satterfield reached the United States Attorney's Office he was sufficiently composed to understand the warnings and the significance of the indictment. However, the events at the United States Attorney's Office followed so closely on the heels of those at DEA Headquarters that Satterfield had no realistic opportunity to decide whether or not a change of course would be advisable.

(4) Satterfield was subject to no compulsion whatever to return to DEA Headquarters on Monday. On the contrary, he had ample opportunity to discuss his situation with his brother or anyone else.

(5) Satterfield was at no time subject to threats or abuse by any agent or officer of the United States.

The foregoing findings require the suppression of the two Friday statements, and with respect to the Monday statement, with crystal clarity present the question of the admissibility of a post-indictment statement given without advice of counsel. For reasons which follow we suppress that statement.

#### DISCUSSION

This decision of course, turns on a proper interpretation of Massiah v. United States (1964) 377 U.S. 201. The government's position with respect to that decision is twofold. First, noting that the facts there before the Court involved surreptitious activity (eavesdropping on a conversation with a co-defendant) which might have been deemed to be overreaching, the government urges that Massiah's effect be limited to that type of conduct. Second, the government contends that, by making a statement after Miranda rights (including the right to counsel) had been explained to him, Satterfield waived his rights under Massiah. We reject both contentions.

With regard to the first argument, while it is true that the conduct involved in Massiah was surreptitious, it does not seem to us that any deceitful aspect of the prosecution's conduct was the gravamen of the decision. On the contrary, it appears to us that



the Court was seeking to outlaw the taking of any uncounseled statement from an indicted defendant. In the first place, there can be no gainsaying that the conduct involved in Massiah (whether deceitful or not) would have been wholly lawful as to an unindicted defendant. In the second place, the Court's pointed adoption of the rationale of the concurring opinions in Spano v. New York (360 U.S. 315) strongly suggests that it was espousing those opinions' thesis that an indicted defendant was entitled to "all the procedural safeguards of the law" in any post-indictment dealings with the government. Thus, in concluding its discussion of Spano, the Court observed (377 U.S. at 204):

"It was said [in the concurring Spano opinions] that a Constitution which guarantees a defendant the aid of counsel at such a trial could surely vouchsafe no less to an indicted defendant under interrogation by the police in a completely extrajudicial proceeding. Anything less, it was said, might deny a defendant 'effective representation by counsel at the only stage when legal aid and advice would help him.'"

The quoted language, it seems to us, is wholly inconsistent with the theory that the Court was reacting to the particular facts before it rather than establishing a rule of general application.

In support of its second contention that the circumstance that defendant made his statement after a full recitation of the Miranda warnings constituted a waiver of his right to counsel, the government cites United States v. Barone (2d Cir. 1972) 467 F.2d 247, 249; Moore v. Wolff (8th Cir. 1974) 495 F.2d 35, 37; United States v. Crisp (7th Cir. 1970) 435 F.2d 354, 358-59, cert. denied, 402 U.S. 947.

The Second Circuit decision in Barone does not support the government's position. On the contrary, in that case the court speaking through Judge Hays specifically noted that the defendant had conferred with his counsel on the phone after executing a formal waiver and before making any incriminating statement (467 F.2d at 249). In other words the defendant in Barone - unlike Satterfield here and the defendant in Massiah - had benefitted by the advice of counsel before making his statement.

While the cited 7th and 8th Circuit cases clearly support the government's contention, we respectfully disagree. We prefer the views expressed by Judge Frankel in United States ex rel Lopez v. Zelker (S.D.N.Y. 1972) 344 F.Supp. 1050, aff'd 465 F.2d 1405, cert. denied 409 U.S. 1049, and by Judge Friendly (dissenting) <sup>1/</sup> in United States v. Massimo (2d Cir. 1970) 432 F.2d 324, 326. Both expressed <sup>2/</sup> doubt that the rights established by Massiah could ever be waived.

Under our interpretation of Massiah, after indictment the advice of counsel can be waived only upon such warnings and explanations as would justify a court in permitting a defendant to proceed <sup>3/</sup> pro se at trial. In the first place, such an interpretation comports with the language and spirit of the above-quoted passage from the Massiah opinion. In the second place, it comports with the realities of life. Prior to indictment - before the prosecution has taken shape - there may be many reasons why a suspect might rationally wish to deal with agents without the intervention of counsel. By getting in their good graces and being useful to the government he might be



able altogether to avoid indictment or any legal entanglement. No such opportunity is open to him after a grand jury has spoken. At that point he cannot make any arrangement with agents or prosecutor that is not subject to ultimate approval by the court, and counsel is obviously important to advise him on what terms such approval is likely to be forthcoming and how best to obtain it."

Clearly the events leading up to the statement here involved do not meet this test. On the contrary, the agents graphically described the defendant's confusion as to the advisable course to follow with respect to retaining counsel. Thus, for example, group supervisor Coleman testified on direct examination (Tr. 12):

"I asked him if he had an attorney to which he advised me -- well, he asked my advice. He asked me if I thought an attorney was necessary since he agreed to cooperate and he was going to cooperate with us fully and tell us everything he knew."

Agent Coleman did not consider it his obligation to advise Satterfield about the valuable assistance an attorney might give to a cooperating defendant. Such advice would have included, at a minimum, the possibility that an attorney would have sought to learn of what cooperation Satterfield was capable before letting him put it all on tape and thus utterly destroy his bargaining position.

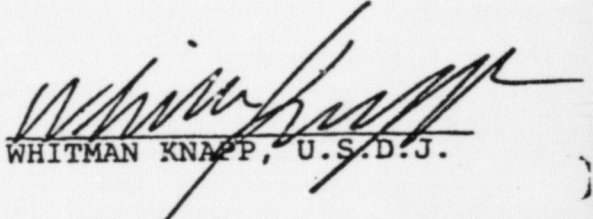
In conclusion we observe that this case lends itself to a declaration of principle precisely because all government agents and officers involved conducted themselves in an exemplary fashion. 4/

The statement is suppressed not because any agent needs to be reproved, but simply because it cannot be said that an indicted defendant is being protected by "all the procedural safeguards of the law" if in an interrogating session he may waive counsel any more easily than he could in open court.<sup>5/</sup>

Accordingly, having found defendant Satterfield's rights as established by Massiah to have been violated, we suppress his statements.

SC ORDERED.

Dated: New York, New York  
July 8, 1976.

  
WHITMAN KNAPP, U.S.D.J.



FOOTNOTES

- 1/ The majority did not reach the point discussed by Judge Friendly. We refer to the thorough opinion of Judge Frankel in Lopez (344 F.Supp. at 1054) for a compilation of relevant authorities. Aside from the redundancy that would be involved in duplicating his scholarship, the limitations of time restrict us. The government has expressed its intention to appeal and hopes -- by means of an expedited appeal -- to get the case before the Court of Appeals in time for a decision before the adjourned date of this trial (November 15, 1976, practically the last date available in light of speedy trial considerations).
- 2/ In United States v. Duval (2d Cir. 1976) \_\_\_\_\_ F.2d \_\_\_\_\_ (slip 2123) the court speaking through Judge Friendly (in Part IV of the opinion) raised questions as to the nature of the advice that must be given before an unindicted defendant could be questioned on his way to be arraigned before a Magistrate.
- 3/ See e.g. Faretta v. California (1975) 422 U.S. 806, 835.
- 4/ Satterfield contends that the agents acted improperly in arranging the arrest in such fashion that both they and the Assistant United States Attorney would have ample time to interrogate him prior to the arraignment. However, given their belief that the resulting statements were admissible in evidence, the agents would have been derelict in their duty had they failed to take appropriate steps to obtain them. Of course, as the opinion makes clear (377 U.S. at 207), the Massiah doctrine in no way inhibits agents or prosecutors from using any stratagems that may be available to induce an indicted defendant to provide evidence against others. Massiah merely prevents, absent the advice of counsel, the use of the fruits of such stratagems against the defendant himself. In other words, the Massiah rule does for a defendant at least part of what counsel would do if present. It permits him to cooperate under conditions such that -- while he may or may not succeed in benefitting himself -- he at least is protected from harm.
- 5/ Clearly under our interpretation, the Massiah doctrine could not be satisfied -- like the Miranda rule -- by any formula printed on a card. Indeed it is difficult to conceive situations where post-indictment counsel could intelligently be waived. At the moment, the only such situation that comes to mind would be where an indicted defendant was given an opportunity to cooperate by involving a "higher up", and the circumstances were such that instant action was required and no delay for consultation possible.

2311  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

A 167

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UNITED STATES OF AMERICA, :

-v- :

REGINALD SATTERFIELD :

Defendant. :

NOTICE OF MOTION

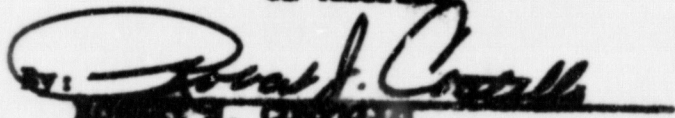
76 Cr. 376 (WK)

-----X  
S I R:

PLEASE TAKE NOTICE that upon the annexed affidavit of Robert J. Costello, sworn to July 16, 1976, the Government hereby moves this Court on July 22, 1976 at 4:00 p.m. or as soon thereafter as counsel can be heard, for an order granting reargument of the order filed herein on July 9, 1976, insofar as that order suppressed certain statements made by the defendant on April 16, 1976 to agents of the Drug Enforcement Administration and the United States Attorney and a statement made on April 19, 1976.

Yours, etc.,

ROBERT B. FISKE, JR.  
United States Attorney for the  
Southern District of New York  
Attorney for the United States  
of America

By:   
ROBERT J. COSTELLO  
Assistant United States Attorney  
Telephone: (212) 791-1960

TO: LAWRENCE FEI/KILL, ESQ.  
150 East 58th Street  
New York, New York 10022



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA, :

-v- :

AFFIDAVIT

REGINALD SATTERFIELD, :

76 Cr. 376 (WK)

Defendant. :

-----X  
STATE OF NEW YORK )  
COUNTY OF NEW YORK : ss.:  
SOUTHERN DISTRICT OF NEW YORK)

ROBERT J. COSTELLO, being duly sworn, deposes and  
says:

1. I am an Assistant United States Attorney in  
the office of Robert B. Fiske, Jr., the United States Attorney  
for the Southern District of New York. I am the Assistant in  
charge of the above-captioned case, and as such I am fully  
familiar with the facts<sup>AND</sup> circumstances of this case. This  
affidavit is respectfully submitted in support of the Govern-  
ment's motion to reargue the order of the Court filed on July  
9, 1976, insofar as it suppressed the statements of the  
defendant Satterfield made to agents of the Drug Enforcement  
Administration and an Assistant United States Attorney on  
April 16, 1976 on the grounds that the statement was involun-  
tary because the defendant was in such an emotional state that  
he could not understand his Miranda warnings or the fact that  
he was under indictment. In addition re-argument is sought on  
that portion of the order suppressing statements made by  
Satterfield on the grounds that post-indictment statements  
made without counsel present violate Massiah.

2. A suppression hearing was held on June 30, 1976 during which the Court heard testimony concerning the arrest of Satterfield and his subsequent interviews by agents of the Drug Enforcement Administration and an Assistant United States Attorney.

3. By a memorandum and order dated July 8, 1976 and filed July 9, 1976 the Court suppressed all three statements given by Satterfield on April 16, 1976 and April 19, 1976.

4. The Court in its findings of fact found that Satterfield "was crying and whimpering" during much of the time that he was present at D.E.A. Headquarters and that therefore Satterfield was in no emotional state to be able to comprehend or intelligently waive his rights. The Court also found that Satterfield was at no time subject to threats or abuse by any agent or officer of the United States. Indeed the Court found that the agents acted "in an exemplary fashion."

5. It is respectfully submitted that under 18 U.S.C. §3501 and the case law that the mere fact that Satterfield was crying and there was no overhearing by the agents, that the facts as found would not be sufficient to render the statements made involuntary.

6. The Government recognizes that if the first statement is determined by the Court to have been voluntarily made then the second statement to the Assistant United States Attorney would also be voluntary. However, both statements would be nonetheless suppressed if this Court addresses to its ruling with respect to Masiah.

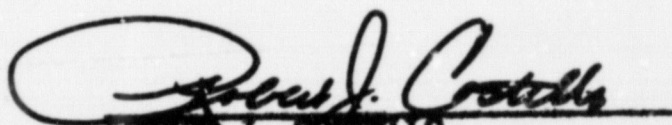


AC:mr  
-2311

7. The Government wishes to note that in any event, as was stated to the defense in the Court's chambers (Transcript pp. 3,4) on July 1, 1976, that it only intends to use the statement made on April 19, 1976 at trial. The reason for the Government's concern with respect to the Court's ruling on the involuntariness of the statements of April 16, 1976 is the possibility of taint with respect to the April 19, 1976 statement.

8. With respect to the Court's ruling on the Massiah issue, reargument is requested so that the Court can consider United States v. Diggs, 497 F.2d 391, 393 & n. 3 (2d Cir.) cert. denied, 419 U.S. 861 (1974) <sup>N</sup> and United States v. Duvall, Dkt. No. 75-1225, slip. op. at 2131 (2d Cir. February 26, 1976) (Friendly, J) which were not discussed in the Court's opinion of July 8, 1976.

WHEREFORE, your deponent prays that the motion to reargue be granted and that the defendant's motion to suppress be denied in toto.

  
ROBERT J. COSTELLO  
Assistant United States Attorney

Sworn to before me this  
day of July, 1976.

LJC:bj  
 1-2310

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

----- x

UNITED STATES OF AMERICA :

- v - :

76 Cr. 376 (WK)

REGINALD SATTERFIELD :

Defendant. :

----- x

GOVERNMENT'S MEMORANDUM IN  
 SUPPORT OF ITS MOTION TO  
REARGUE

The Government submits this memorandum in support of its motion to reargue defendant Satterfield's motion to suppress.

POINT I

SATTERFIELD'S STATEMENTS  
 WERE VOLUNTARY

The Court in its opinion dated July 8, 1976 found that the defendant Satterfield was arrested at approximately 10:00 A.M. on Friday April 16, 1976. The Court found that the defendant was fully apprised of his Miranda rights. Satterfield was then taken to D.E.A. headquarters where he gave a statement substantially admitting his involvement in the criminal conspiracy. During much of the time that Satterfield was at D.E.A. he was crying and whimpering.



The testimony of Group Supervisor Coleman was that Satterfield admitted receiving his rights and stated that he understood them. (Tr. 11)\* Satterfield acknowledged that he knew he was under no obligation to talk, (Tr. 35), and had agreed to cooperate with the agents. (Tr. 12)

It is conceded and the Court has found that Satterfield had cried in the automobile on the way to D.E.A. headquarters and that he cried intermittently and was emotionally upset while he was at D.E.A. (Tr. 29, 36, 37, 52, 54)

The mere fact that a defendant is crying and emotionally upset is not sufficient to render a confession involuntary. If anything, such behavior indicated that Satterfield understood that he was in a great deal of trouble and that he had been indicted. There is no indication from such conduct that his will was overborne. To determine whether a confession was coerced it is necessary to look at the totality of the circumstances. Boulden v. Holman, 349 U.S. 478 (1969); See United States ex rel. Lewis v. Henderson, 520 F.2d 896 (2d Cir. 1975); Mancusi v. United States ex rel. Clayton, 454 F. 2d 454 (2d Cir.), cert. denied, 406 U.S. 977 (1972); 18 U.S.C. §3501. The question in each case is whether the defendant's will was overborne at the time he confessed. Lynum v. Illinois, 372 U.S. 528, 534 (1963).

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\* "Tr" refers to the minutes of the suppression hearing held on June 30, 1976.

In determining whether the defendant's will was overborne, the age, ability, and mental condition of the defendant are considered. Gallegos v. Colorado, 370 U.S. 49 (1962); Rack v. Pate, 367 U.S. 433 (1961); United States v. Collins, 462 F. 2d 792 (2d Cir.), cert. denied, 409 U.S. 388 (1972). In addition the duration and type of questioning is considered. Haynes v. Washington, 373 U.S. 503, 5414-515 (1963).

In the instant case, the testimony revealed that Reginald Satterfield was 35 years old, a college graduate with a B.S. degree who had never been arrested before. (Tr. 48) The testimony showed that Mr. Satterfield arrived at D.E.A. headquarters at approximately 10:30 A.M. (Tr. 42) He was fingerprinted, photographed and interviewed. After that Satterfield was taken to the United States Attorney's office arriving at approximately 12:30 P.M. (Tr. 46)

It can hardly be said that the defendant was subjected to vigorous questioning since the entire process took less than two hours. In addition, the defendant is a well educated adult who had previously indicated that he understood his rights and was willing to cooperate. (Tr. 11, 12, 35) Under these circumstances, it is difficult to



UC:bj  
h-2310

imagine how the fact that he was crying rendered his statements involuntary. The crying can more easily be viewed, in light of the defendant's age and background, as a recognition that he only too well understood exactly what was occurring.

#### POINT II

#### SATTERFIELD INTELLIGENTLY AND KNOWINGLY WAIVED HIS RIGHTS UNDER MASSIAH

This Court in its opinion of July 8, 1976 found that Satterfield's statements were taken in violation of his Sixth Amendment right to counsel and that Miranda warnings together with informing the defendant he was under indictment were insufficient in order to waive <sup>his</sup> ~~your~~ rights under Massiah. In so ruling, this Court recognized that Moore v. Wolff, 495 F. 2d 35, 37 (8th Cir. 1974) and United States v. Crisp, 435 F. 2d 354, 358-359, cert. denied 402 U.S. 947 (1971) supported the Government's position, but declined to follow them. Instead, this Court followed the views of Judge Friendly in a dissenting opinion in United States v. Massimo, 432 F. 2d 324, 326 (2d Cir. 1970) and Judge Frankel in United States ex rel Lopez v. Zelkar, 344 F. Supp. 1050 (S.D.N.Y. 1972), aff'd without opinion, 465 F. 2d 1405 (2d Cir.), cert. denied, 409 U.S. 1049 (1972).

JC:bj  
-2310

It is the Government's position that both of these decisions as well as the view expressed by Judge Smith in United States v. Diggs, 497 F. 2d 391, 393 F.n. 3 (2d Cir.), cert. denied, 419 U.S. 861 (1974) support the Government's position.

Judge Friendly in Massimo, supra said:

"Warnings by law enforcement officers and subsequent action by the accused that might suffice to comply with Fifth Amendment strictures against testimonial compulsion would not necessarily meet what I regard as the higher standard with respect to waiver of the right to counsel that applies when the Sixth Amendment has attached." (emphasis added).

In other words Judge Friendly found that in order to waive Massiah, you need the Miranda warnings plus something, although he did not specify what that something was. In Lopez, supra., Judge Frankel found that there was no effective waiver when the defendant, who was given Miranda warnings, was not told he was under indictment, a matter that Judge Frankel called "of obvious moment." Id. at 1055. Judge Frankel therefore found the F.B.I. interview under those circumstances to be precisely the kind of deceptive activity condemned in Massiah. Judge Frankel noted that the matter of waiver was a debatable question and opined



RJC:bj  
n-2310

that the "plus" that Judge Friendly had in mind would be to inform the defendant that what he was going by making a statement without a lawyer was "folly". The Second Circuit however, has failed to agree with Judge Frankel on this issue. As Judge Smith noted in United States v. Diggs, supra. Judge Frankel's decision was affirmed without opinion which as he noted has no precedential value. Id. at 393. In addition, Judge Smith noted that "Judge Frankel concluded that a waiver of right to counsel was ineffective when made without knowledge that a first degree murder indictment was outstanding." Id. at 393, fn. 3. The same interpretation was given to Lopez by Judge Friendly in United States v. Duvall, Dkt. No. 75-1225, Slip. op. at 2131 (2d Cir. February 26, 1976) in outlining the appellant's contentions.\*

Diggs, supra involved a pre-indictment interview of the defendant, after counsel had been appointed. Although the Sixth Amendment right to counsel had attached by virtue of the appointment, the Second Circuit (Kaufman, Smith and Mr. Justice Clark) found that there was a valid waiver of the right to counsel by the Miranda warnings and in so doing noted that Judge Frankel's opinion in Lopez was without precedential value.

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\*An examination of Appellant's brief in Duvall reveals that that while he made the same contentions Judge Friendly apparently did not disagree but found that it was unnecessary to reach these contentions under the particular facts of Duvall.

RJC:bj  
n-2310

**CONCLUSION**

For the foregoing reasons it is respectfully requested that reargument be granted and that the motion to suppress be denied in all aspects.

Respectfully submitted,

**ROBERT B. FISKE, JR.**  
United States Attorney for the  
Southern District of New York  
Attorney for the United States  
of America

**ROBERT J. COSTELLO**  
Assistant United States Attorney

- Of Counsel -



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

-against-

76 Cr. 376  
(W K)

REGINALD SATTERFIELD,

Defendant.

-----X

DEFENDANT'S MEMORANDUM IN  
OPPOSITION TO MOTION TO  
REARGUE DECISION TO SUPPRESS  
STATEMENTS.

POINT I

SATTERFIELD'S MENTAL CONDITION  
FOLLOWING HIS ARREST PRECLUDED  
A KNOWLEDGEABLE WAIVER OF HIS  
MIRANDA RIGHTS.

The record fully sustains the Court's view that

the defendant Satterfield did not knowledgeably waive his rights against self-incrimination with respect to the two interviews conducted on April 16, 1976. The defendant testified at his suppression hearing regarding his agitated and disturbed physical and mental state after his arrest on April 16, 1976. That testimony was not only not contradicted by the Government's own witnesses - it was explicitly corroborated by them. The defendant testified openly and with candor at his hearing regarding his emotional and physical state and the Court was able to perceive, at first hand, that his testimony revealed that on April 16th, for the two or three hours after his arrest and interrogation both by Agents and the government's attorney, he was in an extremely disordered state and without substantial ability to comprehend the warnings allegedly given to him.

In its motion for reargument, the Government seriously misapprehends the Court's decision to suppress statements and cites cases which do not deal in any way



with the problem of waiver discussed by Judge Knapp who wrote:

"Although the Miranda warnings were given on Friday, April 16 by the DEB agents, Satterfield was in no emotional state to be able to comprehend or intelligently waive his rights" (see Decision July 8, 1976, p. 3).

The Court quite correctly perceived that the defendant Satterfield was in such a distraught state that he was unable intelligently to comprehend the warnings given him and to render a knowledgeable waiver. Judge Knapp did no write or decide that Satterfield's "will was overborne", as the memorandum of the Government seems bent on suggesting (see p. 2 of Memo of A.U.S.A. Costello). It is, therefore, a useless exercise to cite cases - as the Government does in its papers on this motion - which deal with the question of 'coercing' a confession or turning aside and overcoming the perceived will of a defendant to resist interrogation (see cases cited in Gov't's Memo, p. 2). Judge Knapp's decision is thus

correctly and securely based on the unassailable premise - borne out by the record - that on April 16th Satterfield was in such emotional disarray that his mental processes were then incapable of functioning in an orderly fashion.

This is made perfectly clear by the testimony of Agent Coleman, the DEA Group Supervisor who gives us a vivid picture of Satterfield's state of mind at DEA headquarters an hour or more after his arrest. Coleman tried to speak to the defendant who kept "crying" and "whispering" to such a degree that Coleman asked him "What is the problem" (Tr. 34). Coleman could see that Satterfield was "quite emotionally upset" and that he was behaving "like the whole house had fallen down on him" (Tr. 36-37). Because of Satterfield's extreme emotional state, Coleman revealingly undertook to be "encouraging" to him. Certainly, Coleman's need to calm the defendant down simply in order to proceed with the interrogation conveys the sense of terror which seemed to have overcome Satterfield.



Supervisor Coleman's testimony was verified by that of Agent Kibble who not only verified that Satterfield wept at DEA headquarters and was "upset", but that the defendant broke down and cried in the Agents' auto as they drove to DEA headquarters (Tr. 29).

Satterfield, testifying in his own behalf, stated that he had never before been arrested and did not understand why he was arrested and taken away in handcuffs (Tr. 50-51, 52). He began weeping in the Agents' car and was "very emotional" throughout his detention and processing at DEA headquarters (Tr. 52, 54). The agents took his shoes off (Tr. 54). He felt "very weak"; "alone"; and his stomach started to act up giving him the feeling of "indigestion" and a need "to go to the bathroom" (Tr. 55). He was distraught and so harried that the agents themselves were trying to calm him down (Tr. 68). In all vital respects, therefore, the witnesses for the Government gave testimony fully supporting the defense

version of Satterfield's condition.

It is well established that the waiver of a constitutional right is not lightly to be inferred. The waiver, if any, must be clear, knowledgeable, and unambiguous (Johnson v. Zerbst, 304 U.S. 458; Miranda v. Arizona, 384 U.S. 436, 475). And, the burden of establishing the waiver is on the prosecution (id., Ringel, Searches and Seizures Arrests and Confessions; Clark Boardman Co. Ltd. 1972, p. 65). Clearly, in this case, the Government's burden of establishing a waiver was not sustained. The burden belonging to the Government respecting proof of a waiver may not be avoided simply by couching the issue in terms of coercion or voluntariness (see Gov'ts. Notice of Motion, p. 2 which avoids discussion of the "waiver" issue and casts the problem solely in the misleading jargon of voluntariness). Satterfield was not shown to have been able to comprehend or intelligently to waive his Miranda rights - and on this



subject the Court's conclusion remains continually unassailable - not simply because the facts support the Court's view of the testimony, but equally because the Government's analysis on its motion to reargue is erroneously hinged to the false premise that the defense position is one of coercion.

Accordingly, the motion to reargue should be denied.

The authorities discussed in Point II of the Government's papers are treated fully in the memorandum of Judge Knapp. No contentions are made by the prosecutor which the Court failed to consider and it is not shown that Judge Knapp has erred in his view of the law which he finds applicable. The considerations expressed by Judge Knapp as crucial thus stand untouched on legal or analytical grounds and there is absolutely no reason why the Court should retreat from its well reasoned view of the case.

The motion for reargument should be denied.

Dated: New York, New York  
July 21, 1976

Respectfully submitted,

LAWRENCE K. FEITELL, ESQ.  
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Satterfield  
150 East 58th Street  
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(212) PL-3-7500



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

REGINALD SATTERFIELD,  
RONALD WESTON and  
JAMES ARNOLD BYRD,

Defendants.

MEMORANDUM AND ORDER

76 Cr. 376

4482-1

KNAPP, D.J.

On reargument the government has asked us to reconsider findings #1 and #2 to the extent that they indicate that Satterfield's emotional condition at D.E.A. headquarters was such as to prevent him from comprehending or intelligently waiving his rights. As is readily apparent from the opinion, our attention was not primarily focused on the events of Friday, April 16, but on Monday, April 19. Having reviewed the record concerning Friday's events, we have come to the conclusion that our original view of them was incorrect. To be sure, the defendant was under emotional stress and - by crying and whimpering - demonstrated that stress more than most people who have been arrested. However, his conduct, as revealed by the agents' testimony as well as his own, would not appear to be that of a man who did not comprehend the meaning of what was being said or of his own responses thereto.

Accordingly, findings #1 and #2 are modified in  
to establish that Miranda warnings were given and that the  
advised Satterfield of the indictment. It follows that find-  
#3 is modified simply to indicate that the warnings and inform-  
about the indictment were repeated by the Assistant United States  
Attorney. No further modification of the original findings is  
required, since all three statements will be supported by the  
reason stated under the heading "discussion".

The government's motion is granted to the extent  
indicated above and is denied in all other respects.

SC ORDERED.

Dated: New York, New York

July 22, 1976.

  
WILLIAM K. SULLIVAN, U.S. District Judge



A 188

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

-v- :

REGINALD SATTERFIELD, :

Defendant. :

NOTICE OF APPEAL

76 Cr. 376 (WK)

NOTICE is hereby given that the United States of America, hereby appeals, pursuant to Title 18, United States Code, Section 3731, to the United States Court of Appeals for the Second Circuit from two pre-trial orders of the Honorable Whirman Knapp, United States District Judge, Southern District of New York, entered on July 9, 1976 and July 23, 1976 suppressing three statements of the defendant on the ground that the post-indictment statements were made without an adequate waiver of counsel.

ROBERT B. FISKE, JR.,  
United States Attorney for the  
Southern District of New York  
Attorney for the United States  
of America.

By: 

ROBERT J. COSTELLO  
Assistant United States Attorney  
Telephone: (212) 791-1960

LAWRENCE E. FITTELL, ESQ.,  
150 East 58th Street  
New York, New York 10022

AFFIDAVIT OF MAILING

State of New York )  
: ss.:  
County of New York)

Frederick T. Davis being duly sworn,  
deposes and says that he is employed in the office of  
the United States Attorney for the Southern District  
of New York.

That on the 30 day of August 1976  
he served a copy of the within ~~appendix~~  
by placing the same in a properly postpaid franked  
envelope addressed:

Lawrence Feitell  
150 East 58th Street  
New York N.Y. 10022

And deponent further says that he sealed the said en-  
velope and placed the same in the mail drop for  
mailing the United States Courthouse, Foley  
Square, Borough of Manhattan, City of New York.

Frederick T. Davis

Sworn to before me this

30 day of August, 1976

Gloria Calabrese

GLORIA CALABRESE  
Notary Public, State of New York  
No. 24-653540  
Qualified in Queens County  
Commission Expires March 30, 1977